

## FIRST DIVISION

[ G.R. No. 208053, October 18, 2017 ]

**MEATWORLD INTERNATIONAL, INC., PETITIONER, VS.  
DOMINIQUE A. HECHANOVA, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

"In constructive dismissal cases, the employer is, concededly, charged with the burden of proving that its conduct and action were for valid and legitimate grounds."  
[1]

Before the Court is a Petition for Review on *Certiorari* [2] filed under Rule 45 of the Rules of Court assailing the September 12, 2012 [3] and July 3, 2013 [4] Resolutions of the Court of Appeals (CA) in CA-G.R SP No. 125953.

#### ***Factual Antecedents***

On September 6, 2006, petitioner Meatworld International, Inc., a corporation engaged in the business of selling fresh meat under the brand name of "Mrs. Garcia's Meats" in different outlets located in different malls or markets, [5] hired respondent Dominique A. Hechanova as a head butcher. [6] At the time of his termination; respondent was assigned at the outlet of Robinsons Place Mall, Ermita, Manila (Robinsons Place Manila), with a salary of P10,600 a month. [7]

On March 2, 2011, respondent filed a Complaint [8] for Illegal Dismissal with claim for reinstatement and backwages against petitioner and/or Joyce Alcoreza (Alcoreza), [9] Vice-President [10] of petitioner. Respondent alleged that on November 10-19, 2010, he was suspended for violating the regulation of SM Hypermarket, Muntinlupa, prohibiting employees of concessionaires from tasting food peddled by some promodizers; [11] that after his suspension, he reported to the office of petitioner for his reassignment but he was informed by the Employee Relation Supervisor Junel Romadia (Romadia), that there was no available outlet yet; [12] that on December 9, 2010, respondent was assigned at Robinsons Place Manila; [13] that on January 5, 2011, he was relieved from his assignment and was told to report to the office on January 6, 2011 for his performance evaluation; [14] that when he reported to the office on January 6, 2011, he was told to come back on January 10, 2011; [15] that on January 10, 2011, Romadia asked him to leave his cellphone number so she could text him when to come back; [16] that on January 12, 2011, respondent via text message asked Romadia when he could report for work; [17] that Romadia replied that he could report for work anytime; [18] that on January 13, 2011, respondent reported to the office at around 1 PM but was scolded by Alcoreza

for not arriving in the morning;<sup>[19]</sup> that respondent explained to Alcoreza that he came in the afternoon because he knew the office personnel were very busy in the morning;<sup>[20]</sup> that Alcoreza retorted, "*Magresign ka na lang or tanggalin ka namin*;"<sup>[21]</sup> that respondent pleaded to her but she left without saying a word;<sup>[22]</sup> that Romadia approached him and told him to wait for her text;<sup>[23]</sup> that on January 17, 2011, he decided to ask the help of Mr. Raffy Tulfo (Tulfo) since he had not received any text message from petitioner;<sup>[24]</sup> that Tulfo gave him a referral letter to the Department of Labor and Employment (DOLE) - CAMANAVA;<sup>[25]</sup> that on the same day, he went to the DOLE-CAMANAVA and filled-out a Single-Entry Approach (SENA) Form for illegal constructive dismissal alleging that he was not given any work assignment and was being forced to resign;<sup>[26]</sup> and that the case was forwarded to the National Labor Relations Commission (NLRC).<sup>[27]</sup>

In response, petitioner claimed that it did not dismiss respondent as he was the one who failed to report for work.<sup>[28]</sup> Petitioner alleged that in April 2010, respondent was banned from working at all Puregold outlets because a personnel of Puregold BF caught him urinating in the storage room where fresh food items were kept;<sup>[29]</sup> that respondent was suspended from November 18-25, 2010 for leaving his workplace without permission on November 5, 2010 and for being under time for the dates October 31 and November 1, 2010;<sup>[30]</sup> that respondent was placed on preventive suspension on November 27-30, 2010 for eating food products or sample items of another concessionaire in the cold room storage area;<sup>[31]</sup> that respondent was banned from working at the SM Hypermarket Muntinlupa branch because of the incident;<sup>[32]</sup> that respondent was temporarily assigned at that Robinsons Place Manila;<sup>[33]</sup> that his assignment ended on January 5, 2011;<sup>[34]</sup> that respondent was told to report to the office on January 6, 2011 for his new assignment but since he arrived late he was told by his supervisor to return the following day as there was a long queue at the Human Resources (HR) Department;<sup>[35]</sup> that since respondent failed to report on January 6, 2011, the vacancy which he was supposed to fill was no longer available;<sup>[36]</sup> that on January 10, 2011, respondent barged in at the HR Department and made a demand for his new assignment;<sup>[37]</sup> that he was told to return in the morning of January 13, 2011;<sup>[38]</sup> that on said date, he arrived late giving Romadia the impression that he was no longer interested to work;<sup>[39]</sup> that on the same day, he received a Memorandum asking him to explain in writing why no disciplinary action should be taken against him for failing to report to the HR Department as scheduled;<sup>[40]</sup> that after the said date, he never reported back to work;<sup>[41]</sup> and that on January 18, 2011, petitioner sent a Memorandum dated January 17, 2011, asking respondent to submit a written explanation and to report to the HR Department on January 24, 2011 at 3:00 PM.<sup>[42]</sup>

### ***Ruling of the Labor Arbiter***

On January 10, 2012, the Labor Arbiter rendered a Decision<sup>[43]</sup> declaring respondent to have been illegally dismissed. The Labor Arbiter gave no credence to petitioner's theory, that respondent failed to return to work for fear of being investigated for his violations of company rules and regulations, for lack of evidence.<sup>[44]</sup> The Labor Arbiter also found petitioner's accusations against respondent to be

untrue and without basis.<sup>[45]</sup> However, considering that the work environment would no longer be healthy, the Labor Arbiter ordered the payment of separation pay in lieu of reinstatement.<sup>[46]</sup> In the absence of any factual or legal basis, the Labor Arbiter relieved Alcoreza of any liability.<sup>[47]</sup> Thus:

WHEREFORE, a decision is hereby rendered declaring [respondent] to have been illegally dismissed. [Petitioner] Meatworld International is directed to pay complainant P116,600.00 as backwages and P42,400.00 as separation pay. Other claims are dismissed.

SO ORDERED.<sup>[48]</sup>

### ***Ruling of the National Labor Relations Commission***

Petitioner appealed the case to the NLRC.

On March 30, 2012, the NLRC rendered a Decision,<sup>[49]</sup> affirming the findings of the Labor Arbiter that respondent was illegally dismissed and thus entitled to backwages and separation pay. The NLRC ruled that petitioner's allegation that it was respondent who refused to report for work was belied by the latter's "immediate action to seek help from Raffy Tulfo."<sup>[50]</sup> As to the alleged infraction of respondent of urinating in the storage room, the NLRC considered it as a fabricated infraction as no document was presented to support this.<sup>[51]</sup> The NLRC even considered the two previous suspensions of respondent as proof that petitioner was giving respondent a hard time.<sup>[52]</sup> It also gave credence to the statement of respondent that he was told to resign by Alcoreza.<sup>[53]</sup> All these taken together led the NLRC to conclude that respondent was illegally dismissed.

Petitioner moved for reconsideration but the NLRC denied the same in its June 15, 2012 Resolution.<sup>[54]</sup>

### ***Ruling of the Court of Appeals***

Unfazed, petitioner elevated the matter to the CA *via* a Petition for *Certiorari*.<sup>[55]</sup> under Rule 65 of the Rules of Court.

On September 12, 2012, the CA dismissed the Petition due to the following infirmities:

1. there was no proper proof of service of the Petition to the adverse party and the agency a quo. While petitioners filed the Affidavit of Service and incorporated registry receipts, [petitioner] still failed to comply with the requirement on proper proof of service. Post office receipt is not the required proof of service by registered mail. Section 10, Rule 13 of the 1997 Rules of Civil Procedure specifically stated that service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever is earlier. Verily, registry receipts cannot be considered as sufficient proof of service; they are merely evidence of mail matter by the post office

to the addressee; and

2. there was no competent evidence regarding the identity of Jocelyn B. Alcoreza as the alleged authorized representative of co-petitioner Meatworld International on the attached Verification and Certification Against Non-Forum Shopping as required by Section 12, Rule II of the 2004 Rules on Notarial Practice. Further, there was no board resolution empowering Jocelyn B. Alcoreza to represent petitioner corporation in this case. The Supreme Court was emphatic when it ruled that in the absence of authority from the board of directors, no person[, ] not even the officers[, ] can bind the corporation. It stressed that any suit filed on behalf of the corporation wanting the required board resolution should be dismissed, since the power of the corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers. Thus, only individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping in behalf of a corporation. In addition, the Court has required that proof of said authority must be attached. Failure to provide a certificate of non-forum shopping is sufficient ground to dismiss the petition. Likewise, the petition is subject to dismissal if a certification was submitted unaccompanied by proof of the signatory's authority.<sup>[56]</sup>

Petitioner sought reconsideration contending that it complied with the proof of service requirement and that the Secretary's Certificate attached to the Petition is sufficient proof of the authority of Alcoreza to file the said Petition.<sup>[57]</sup>

In its July 3, 2013 Resolution,<sup>[58]</sup> the CA conceded that petitioner complied with the proof of service requirement, however, it maintained that petitioner failed to present the Board Resolution and the competent evidence of identity of the affiant.

Hence, petitioner filed the instant Petition for Review on *Certiorari*, raising the following errors:

- A. THE FINDING OF THE [CA] THAT THERE WAS NO COMPETENT EVIDENCE OF IDENTITY AND BOARD RESOLUTION AUTHORIZING THE VICE PRESIDENT OF PETITIONER COMPANY TO FILE THE PETITION IS CONTRARY TO FACTS.
- B. THE [CA] ERRED IN DECLARING THAT A COPY OF THE BOARD RESOLUTION ITSELF, AUTHORIZING THE PERSON ACTING IN ITS BEHALF SHOULD BE APPENDED TO THE PETITION.
- C. THE [CA] ERRED IN NOT RESOLVING THE CASE ON THE MERITS AND:
  1. NOT DECLARING THAT RESPONDENT WAS NOT DISMISSED, MUCH LESS ILLEGALLY DISMISSED BY THE PETITIONER COMPANY FROM EMPLOYMENT; AND

## 2. UPHOLDING THE FINDING OF THE NLRC IN AWARDING BACKWAGES AND SEPARATION PAY IN FAVOR OF RESPONDENT.<sup>[59]</sup>

### ***Petitioner's Arguments***

Petitioner contends that the CA erred in insisting that a copy of the Board Resolution is required to be attached to the Petition for *Certiorari*.<sup>[60]</sup> It claims that under prevailing jurisprudence, a copy of the Secretary's Certificate, attesting that petitioner authorized Alcoreza to file the said Petition for *Certiorari* suffices.<sup>[61]</sup> Moreover, contrary to the findings of the CA, Alcoreza submitted competent proof of identity before the notary public.<sup>[62]</sup> In any case, even if there were defects in the Petition for *Certiorari*, these were excusable, and thus, the CA still should have resolved the case on the merits.<sup>[63]</sup>

As to the merits of the case, petitioner insists that it did not dismiss respondent from employment.<sup>[64]</sup> Rather, it was respondent who failed to report for work because he erroneously assumed that he was being terminated.<sup>[65]</sup> Petitioner likewise puts in question the CA's reliance on respondent's act of seeking help from Tulfo as proof of dismissal.<sup>[66]</sup>

### ***Respondent's Arguments***

Respondent, however, argues that the instant case has been rendered moot as the judgment has been satisfied by the release of the appeal bond by the NLRC Cashier to the respondent.<sup>[67]</sup> In any case, respondent maintains that the CA did not err in dismissing the Petition for *Certiorari* due to technicalities.<sup>[68]</sup> Respondent likewise asserts that the factual findings of the Labor Arbiter and the NLRC are in accord with the facts and evidence on record.<sup>[69]</sup>

## **Ruling**

The Petition must fail.

### ***There were no procedural defects in the Petition for Certiorari.***

Under the Corporation Code, a corporation exercises its powers and transacts its business through its board of directors or trustees.<sup>[70]</sup> Its corporate officers and agents, therefore, cannot exercise any corporate power pertaining to the corporation without authority from the board of directors.<sup>[71]</sup> Corollarily, in order for a person to represent a corporation in a suit, a board resolution authorizing the former to represent the latter is necessary. In several instances, however, the Court has considered a Secretary's Certificate sufficient proof of authority for a person named in it to represent a corporation in a suit.<sup>[72]</sup>

In this case, no board resolution was attached to the Petition for *Certiorari*. However, in lieu thereof, petitioner attached a Secretary's Certificate attesting that Alcoreza was duly authorized by the Board of Directors to sign the necessary pleadings, verification, and certificate of non-forum shopping on behalf of the corporation. This, under prevailing jurisprudence, is sufficient proof of authority.