

SECOND DIVISION

[G.R. No. 213748, November 27, 2017]

RICARDO G. SY AND HENRY B. ALIX, PETITIONERS, VS. NEAT, INC., BANANA PEEL AND PAUL VINCENT NG, RESPONDENTS.

DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari* of the Court of Appeals Decision^[1] dated March 27, 2014, which reversed and set aside the Decision^[2] dated December 27, 2012 issued by the National Labor Relations Commission in NLRC LAC Case No. 08-002451-12 and, accordingly, entered a new judgment finding that petitioners Ricardo Sy and Henry Ali were terminated from employment for just causes, but ordered respondents Neat, Inc., Banana Peel and Paul Vincent Ng to pay petitioners P30,000.00 each as nominal damages for the denial of their right to procedural due process.

Respondent Neat, Inc. is a corporation existing by virtue of Philippine laws, and the owner/distributor of rubber slippers known as "*Banana Peel*," while respondent Paul Vincent Ng is its President and Chief Executive Officer. Petitioner Ricardo Sy was hired on May 5, 2008 as company driver and was dismissed from work on August 4, 2011. Petitioner Henry Alix was hired on November 30, 2005 as a delivery helper/utility and was dismissed from work on May 31, 2011.

Recounting how he was dismissed from work, petitioner Sy alleged that on July 28, 2011, his co-worker Jeffrey Enconado blocked his way to the daily time record of the company, which annoyed him as he was going to be late for work. When he learned from the delivery schedule that Enconado would be his partner, Sy requested the company assistant operations manager, Cesca Abuan, to assign him another "*pahinante*" or delivery utility, but the request was not acted upon. In order to avoid confrontation with Enconado, Sy assigned to himself a new delivery utility. Abuan reported the incident to the human resources department, for which Sy was required to submit a written explanation. The next day, Sy was informed that he would be suspended due to insubordination for three (3) days starting July 29, 2011 until August 2, 2011. Meantime, Sy was supposedly issued 3 other memoranda, covering violations of company rules and regulations on wearing of improper office uniform, which were committed in 2009. On August 3, 2011, Sy reported for work but was not allowed to log in/time in. Human Resource (HR) Manager Anabel Tetan informed Sy that his services will be terminated effective August 4, 2011 due to poor performance. Sy disagreed, claiming that for the 3 years that he worked with the company, he received bonuses for excellent performance.

For his part, petitioner Alix averred that sometime in February 2011, he was ordered to assist a newly-hired clerk. After helping his co-worker, Alix sat down for a while. Respondent Ng saw Alix, and thought that he was doing nothing during working

hours. On May 19, 2011, Alix was assigned to clean at the company warehouse. After working, Ng saw Alix resting again. Alix was suspended for 3 days, and was thereafter dismissed. A month after his dismissal, Alix went back to the company to ask for his salary. Before being allowed to receive his salary, Alix was asked to sign a document. In dire need of money, he was left with no option but to sign the document, which he later discovered to be a waiver.

On August 10, 2011, petitioners Sy and Alix filed a Complaint^[3] for illegal dismissal and payment of money claims.

Respondents Neat, Inc. and Ng countered that during the period that petitioners were employed, they were both problem employees. They alleged that Sy was the recipient of numerous disciplinary actions, namely:

Date of Memorandum	Nature of Offense	Penalty Imposed
30 January 2009	Improper uniform (wearing earrings)	Warning
29 May 2009	Improper uniform	Warning
01 June 2009	Improper uniform	3-day suspension
28 July 2011	Insubordination	3-day suspension
05 August 2011	Poor Performance Evaluation	Warning

In a notice dated August 4, 2011, respondent Neat, Inc., through HR. Manager Tetan, terminated Sy's services effective on even date, thus:

We regret to inform you that Neat, Inc. has terminated your employment effective August 04, 2011. Your dismissal is due to the offenses made; according to our record you have been issued 5 written warnings that are subjected to your dismissal.

Neat, Inc. would like to take this opportunity to thank you for your service that you rendered in our company. Please report to the head office HR Department for your clearance and return any company properties that are in your possession.^[4]

Alix was also a recipient of many disciplinary actions:

Date of Memorandum	Nature of Offense	Penalty Imposed
21 July 2007	Negligence in work	Warning
29 May 2009	Improper Uniform	Warning
01 February 2011	Wasting Time	Warning
01 February 2011	Poor Performance Evaluation	Warning
19 May 2011	Wasting Time	3-day suspension
20 May 2011	Frequent Tardiness	Warning
30 May 2011	Poor Performance	Warning

In a Memorandum^[5] dated May 31, 2011, Neat, Inc., through HR. Manager Tetan, terminated Alix's services on even date, thus:

We regret to inform you that your employment with Neat, Inc. has terminated effective as of May 31, 2011. Your dismissal is due to the offense made; according to our record you have been issued 6 written warnings that are subjected to your dismissal.

Reason for your termination are as follows:

1st warning (issued on July 21, 2008) - negligence in performing his work

2nd warning (issued on May 29, 2009) - Not wearing complete uniform

3rd warning (issued on February 1, 2011) - Wasting time during working hours

4th warning (issued on February 1, 2011) - Poor performance evaluation from Production Supervisor, Noel Jabagat

5th warning (issued on May 19, 2011) - Wasting time during working hours

6th warning (issued on May 20, 2011) - Tardiness for the month of January, February, March, April 2011

7th warning (issued on May 30, 2011) - Poor performance evaluation from operation[s] head.

Respondents contended that because of petitioners' continued and repeated commission of various offenses and violations of company rules and regulations, they were terminated for a just cause. They added that petitioners were paid wages, overtime pay, 13th month pay and other benefits in accordance with the Labor Code and other laws, as shown in the payslips attached as Annexes "1" to "354" of their position paper.

As the parties failed to reach a settlement, the Labor Arbiter^[6] (LA) directed them to submit their respective position papers. Both parties submitted their Position Papers on October 13, 2011, their Replies on November 15, 2011, and their Rejoinders on November 28, 2011.

On July 25, 2012, the LA rendered a Decision, the dispositive portion of which states:

WHEREFORE, premises considered, the complaint for illegal dismissal is dismissed for lack of merit. But, the respondents are hereby ordered to pay complainants Alix and Sy the amount of P15,000.00 each, or a total of P30,000.00 for both, as financial assistance.

All other claims of complainants are dismissed for lack of merit.

SO ORDERED.^[7]

The LA found that petitioners Sy and Alix were dismissed due to serious misconduct, gross neglect of duty and insubordination. It held that these offenses were duly proven by the respondents, as can be gleaned from the case records, and noted that Alix even signed a Waiver and Release on June 10, 2011, releasing respondents from any liabilities whatsoever in connection with his employment. The LA ruled that the evidence on record shows that respondents gave petitioners opportunity to

defend themselves, and have thus complied with the procedural due process required by the Labor Code. Nonetheless, for compassionate reasons and considering that petitioners have rendered services which somehow contributed to the growth of the company, the LA deemed it proper to award them financial assistance in the amount of P15,000.00 each.

Dissatisfied with the Labor Arbiter decision, petitioners filed an appeal before the National Labor Relations Commission (NLRC).

On December 27, 2012, the NLRC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, complainants' APPEAL is hereby GRANTED. Respondents are hereby ordered to pay complainants full backwages and separation pay equivalent to one (1) month salary for every year of service. The award of financial assistance is deleted.

The attached computation shall form part of the decision.

SO ORDERED.^[8]

The NLRC reversed the LA's Decision, finding that the records failed to support the grounds of serious misconduct, gross neglect of duty and insubordination cited by respondents as bases in terminating petitioners' employment. It held that records show that petitioners were suspended after a single incident and thereafter, they were served notices of termination which denied them their rights to defend themselves. The NLRC noted that Sy was suspended after changing his "*pahinante*" despite not being allowed to do so, and was then issued 3 memos for infractions committed in 2009, while Alix was suspended after being caught resting and not working, and was thereafter served with a notice of termination.

The NLRC stressed that past infractions cannot be collectively taken as justification for dismissal of an employee from service. The NLRC pointed out that in the matrix submitted by respondents, corresponding penalties for past infractions were already imposed, and petitioners were further suspended for their latest infractions; thus, there is no valid justification on the part of respondents to consider the past infractions in terminating petitioners. Anent the waiver and release signed by Alix, the NLRC rejected it, stating that his wage is his only source of income to sustain his family, and that any person in a similar situation would sign any document to get the withheld salary. Since petitioners were illegally dismissed, the NLRC held that they are entitled to payment of backwages and payment of separation pay *in lieu* of reinstatement on account of the strained relations between the parties, but the award of financial assistance is considered moot and academic.

Respondents filed a motion for reconsideration, which the NLRC denied for lack of merit in the Resolution dated June 20, 2013.

Aggrieved by the NLRC Decision, respondents filed before the Court of Appeals (CA) a petition for *certiorari* under Rule 65 of the Rules of Court.

On March 27, 2014, the CA rendered the assailed Decision, finding that the NLRC

gravely abused its discretion in reversing the decision of the LA, and disposing as follows:

WHEREFORE, in view of the foregoing premises, the petition is hereby partially **GRANTED**. The Resolution dated June 20, 2013 and the Decision dated December 27, 2012 issued by the National Labor Relations Commission (Fourth Division) in NLRC LAC Case No. 08-002451-12 are **REVERSED AND SET ASIDE**.

Accordingly, a **NEW JUDGMENT** is entered finding that private respondents were terminated from employment for just cause. However, the petitioners are ordered to pay private respondents P30,000.00 each as nominal damages for the former's denial of their right to procedural due process.

SO ORDERED.^[9]

The CA held that the dismissal of petitioners was justified under Article 282 (a) and (b) of the Labor Code, as amended, on the grounds of serious misconduct or willful disobedience of the lawful order of the employer or representative in connection with the employee's work, and gross and habitual neglect of the employee's duties.

With respect to petitioner Sy, the CA stressed that his repeated violations of the company's rules and regulation, as reflected in the several warnings found on record, amounted to just cause for termination, and that his act of insubordination alone when he changed his "*pahinante*" in direct contravention of the orders of his superior, amounts to serious misconduct or willful disobedience. As for petitioner Alix, the CA said that aside from his frequent tardiness, the six (6) warnings issued to him provide a just cause for his dismissal. While there are just causes for the termination of petitioners' employment, the CA ruled that failure to comply with the procedural requirements of notice [specifying the ground/s for termination, and giving to the employee reasonable opportunity to be heard] and hearing, constitutes denial of due process, which entitles them to an award of nominal damages in the amount of P30,000.00 each. As regards the Waiver and Release signed by Alix, the CA said that it cannot bar him from demanding what is legally due, because an employee does not stand on equal footing with the employer, and in desperate situations may even be willing to bargain away his rights. Finally, there being no basis for the grant of backwages and separation pay, the CA no longer discussed the monetary award computed by the NLRC.

Unconvinced with the CA Decision, petitioners filed this petition for review on *certiorari* under Rule 45, arguing in the affirmative of the following Issues:

I.

WHETHER THE PETITIONERS' ALLEGED PAST INFRACTIONS IS DETERMINATIVE IN IMPOSING THE PENALTY FOR THEIR SUPPOSED RECENT INFRACTION.

II.

WHETHER RESPONDENTS ILLEGALLY DISMISSED PETITIONERS.