822 Phil. 863

THIRD DIVISION

[G.R. Nos. 228701-02, December 13, 2017]

MEHITABEL, INC., PETITIONER, V. JUFHEL L. ALCUIZAR, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

Nature of the Case

For the Court's consideration is the Petition for Review on Certiorari under Rule 45 of the Rules of Court challenging the May 19, 2016 Decision[1] and October 19, 2016 Joint Resolution of the Court of Appeals (CA) in CA-G.R. CEB SP Nos. 07302 and 07321, which reversed the July 31, 2012 Decision of the National Labor Relations Commission (NLRC), and consequently ruled that respondent Jufhel L. Alcuizar[2] was illegally dismissed from employment.

The Facts

Petitioner Mehitabel, Inc. is a duly registered corporation engaged in manufacturing high-end furniture for export.[3] The company's Purchasing Department is composed of only four (4) persons: one (1) Purchasing Manager, one (1) Purchasing Officer handling local purchases, one (1) QC Inspector, and one (1) Expediter.[4] On August 31, 2010, the company hired respondent as its Purchasing Manager.[5]

Respondent was able to earn a satisfactory rating during his first few months in the company, but beginning March 2011, his immediate supervisor, Rossana J. Arcenas (Arcenas), started receiving complaints on his work ethics. Petitioner averred that respondent's dismal work performance resulted in delays in the production and delivery of the company's goods.[6]

To address these issues, Arcenas talked to respondent and counselled him to improve. As months passed, however, the complaints against respondent's performance have exacerbated to the point that even the top level officers of the company have expressed their dissatisfaction over his ineptitude.[7]

Sensing no improvement from the respondent and the rising complaints, Arcenas decided to sit down and talk with respondent anew sometime in early August 2011 to encourage the latter to shape up. She advised respondent that should he fail to heed her advice, she may be forced to initiate disciplinary proceedings against him for gross inefficiency.

Arcenas then alleged that respondent left the premises of petitioner's company on August 10, 2011 and gave word that he was quitting his job. Arcenas' narration was corroborated by Sherrie Mae A. Cañete (Cañete) and Wilma R. Molina (Molina), the company's Human Resource Officer and security personnel, respectively, both of

whom were personally informed by respondent of his intention to sever the ties with the company.[8] On even date, petitioner wrote to respondent *via* registered mail to inform him that the company decided to treat his act of leaving the office as a violation of its code of conduct, specifically on the provision of abandonment. The letter adverted to reads:

> Mr. Alcuizar,
>
> This morning, you left the office without asking permission from your direct superior, Rosanna J. Arcenas, and only left word with Sherrie Cañete, Acting HR Officer, and the guard that you are quitting your job.
>
> You are already aware that your leaving during working hours is a violation of our company rules and regulations, particularly #1 of Section B (Behavior at Work) of our Code of Conduct which says:
>
> > "Abandoning work place or company premises during working hours without prior permission from superior."
>
> In view thereof, you are hereby advised to report back to work immediately upon receipt hereof and thereupon submit your written explanation as to why you should not be disciplined for committing the above violation. Failure to submit said written explanation shall be deemed a waiver of your right to present your side and shall constrain us to decide on your case based on available evidence.[9]

Despite respondent's receipt of the afore-quoted letter, he neither reported back to work nor submitted his written explanation.[10] Instead of receiving a reply, petitioner received summons pertaining to a labor dispute that respondent had filed, docketed as NLRC-RAB VII 08-1241-2011.

Unbeknownst then to petitioner, respondent lodged a complaint for illegal dismissal, non-payment of salary, 13th month pay, damages and attorney's fees with claims for reinstatement and backwages against the company and its president, Robert L. Booth (Booth). Respondent emphasized that as early as May 29, June 10, and June 28, 2011, petitioner caused the publication in a newspaper and online a notice of a vacant position for Purchasing Manager, the very same item he was occupying in the company. Subsequently, he was allegedly advised by Arcenas on August 10, 2011 that the company no longer required his services for his failure to satisfactorily meet the company's performance standards, and that he should turn over his work to the newly-hired Purchasing Manager, Zardy Enriquez (Enriquez). It was further alleged that Booth confirmed that respondent was being replaced.

Seeking to absolve themselves from the charge, petitioner and Booth countered that respondent was not illegally dismissed, and that it was actually the latter who abandoned his post.[11] Anent the published job opening, petitioner countered that it was a product of sheer inadvertence; that what was actually vacant was the position of Purchasing Officer, not Purchasing Manager. Respondent was allegedly informed of this inadvertence.

Ruling of the Labor Arbiter

On January 12, 2012, the Labor Arbiter Butch Donabel Ragas-Bilocura, before whom the case was pending, rendered a Decision[12] dismissing the complaint for lack of merit. She found that respondent failed to establish by substantial evidence the fact of dismissal—a precondition before the burden to prove that the dismissal is for a valid or authorized cause can be shifted onto petitioner.

Ruling of the NLRC

On appeal, the NLRC, in its July 31, 2012 Decision,[13] reversed the ruling of the Labor Arbiter and ruled thusly: [14]

> WHEREFORE, premises considered, the decision of the Labor Arbiter is hereby REVERSED AND SET ASIDE and a NEW ONE ENTERED declaring validity in the dismissal of complainant. However, for respondent's failure to observe due process, complainant is entitled to be paid indemnity in the form of nominal damages in the amount of P10,000.00
>
> SO ORDERED.

Essentially, the NLRC held that there was dismissal for just cause. It noted that while respondent was repeatedly informed of his below par performance, he remained indolent, thereby causing needless delays in production, customer complaints, lost shipments, and delivery issues. Petitioner was then well within its right in dismissing complainant. Nevertheless, while there exists a substantive ground for an employees' dismissal, respondent is entitled to nominal damages for petitioner's failure to observe procedural due process in terminating him from work.

Both parties moved for reconsideration, but the NLRC maintained its posture. Hence, they filed separate petitions for certiorari before the CA, which were eventually consolidated.

Ruling of the CA

On May 19, 2016, the CA promulgated its assailed Decision, the dispositive portion of which reads:[15]

> IN LIGHT OF ALL THE FOREGOING, the petition for *certiorari* filed by petitioner Jufhel L. Alcuizar, docketed as CA-G.R. SP No. 07302 is PARTLY GRANTED while the petition for *certiorari* filed by petitioner Mehitabel, Inc. and Robert L. Booth, docketed as CA-G.R. SP No. 07321, is DENIED. The Decision dated July 31, 2012 and the Resolution dated September 24, 2012 of the National Labor Relations Commission, Seventh Division, Cebu City, in NLRC Case No. VAC-05- 000342-2012, are REVERSED and SET ASIDE.
>
> A new decision is hereby rendered declaring petitioner Jufhel L. Alcuizar as having been illegally dismissed. Consequently, Mehitabel, Inc. is hereby ordered to reinstate Jufhel L. Alcuizar to his former position without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances and benefits, form the date he was illegally dismissed on August 10, 2011 up to the time of his actual reinstatement. Mehitabel, Inc. is also ordered to pay Jufhel L. Alcuizar attorney's fees equivalent to 10% of his monetary award.

> Let this case be remanded to the Labor Arbiter for the proper computation of Jufhel L. Alcuizar's monetary awards, which Mehitabel, Inc. should pay without delay.
>
> SO ORDERED.

In reversing the NLRC, the appellate court applied Art. 4 of the Labor Code, which prescribes that all doubts in the implementation and interpretation of the provisions of the Code, including its implementing rules and regulations, shall be resolved in favor of labor. It ruled that as between the divergent claims of the parties, more probative weight is to be accorded to respondent's contention.

Based on the circumstances of the case, so the CA ruled, it was more likely that respondent was verbally notified of the termination of his employment on August 9, 2011; that a day after, or on August 10, 2011, Booth confirmed the dismissal; and that feeling aggrieved, respondent instantaneously filed an illegal dismissal case.

The CA could not appreciate petitioner's defense of abandonment, absent proof of deliberate and unjustified refusal on the part of respondent to resume his employment. It found self-serving the affidavits of the company's human resource officer and security guard who testified that respondent allegedly told them that he was quitting his job. On the other hand, respondent's immediate filing of the complaint for illegal dismissal negated petitioner's theory of abandonment.

Hence, the CA found no abuse of discretion, let alone one that is grave, that can be attributed to the NLRC insofar as the latter's factual finding that petitioner was actually dismissed.

Be that as it may, the appellate court, nonetheless, pronounced that there was insufficient evidence to establish that the dismissal was for just cause. The NLRC Decision upholding the validity of the dismissal was therefore reversed, which reversal in turn became the basis for respondent's entitlement to the benefits under Art. 279 of the Labor Code. Meanwhile, Booth was absolved from liability for lack of proof of gross negligence or bad faith on his part.

Petitioner moved for reconsideration from the afore-quoted Decision of the CA, but the appellate court was unconvinced.

This brings us to the instant recourse.

The Issues

Petitioner relies on the following grounds to support its postulation that respondent was not illegally dismissed:[16]

I.

> THE HONORABLE COURT OF APPEALS (20TH Division) COMMITTED SERIOUS REVERSIBLE ERROR IN APPLYING THE RULE AS ENUNCIATED IN ARTICLE 4 OF THE LABOR CODE ON AMBIGUITY IN EVIDENCE IN SUPPORT OF ITS RULING THAT RESPONDENT ALCUIZAR WAS DISMISSED FROM HIS EMPLOYMENT

II.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN HOLDING THAT RESPONDENT DID NOT ABANDON HIS EMPLOYMENT WITH PETITIONER COMPANY

III.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN DECLARING THAT RESPONDENT WAS ILLEGALLY DISMISSED FROM HIS EMPLOYMENT

IV.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN ORDERING PETITIONER COMPANY TO REINSTATE RESPONDENT ALCUIZAR TO HIS FORMER POSITION WITHOUT LOSS OF SENIORITY RIGHTS AND OTHER PRIVILEGES WITH FULL BACKWAGES

V.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN ADJUDGING PETITIONER COMPANY LIABLE IN PAYING THE RESPONDENT HIS CLAIM FOR ATTORNEY'S FEES

Petitioner stresses that the rule on the ambiguity in evidence can only be invoked if there exists doubt in the evidence between the employee and the employer. There being no substantial evidence on the part of respondent establishing the fact of dismissal, petitioner claims that Art. 4 of the Labor Code cannot then find application herein. It adds that the CA's finding that "it is more likely that [respondent] was verbally notified of the termination of his employment" is not anchored on evidence but purely on surmises and conjectures.

On the issue of abandonment, petitioner advances the theory that respondent's intention to sever his employment with petitioner was established through the sworn statements of the company's human resource officer and security guard. It was error for the CA to have so casually dismissed their statements as self-serving since there was no showing that there were factors or circumstances, other than a truthful account of what transpired, that impelled the witnesses to give their testimonies. There is also the matter of the logbook entry bearing the notation that respondent declared that he is quitting his job, and the notice to report back to work that respondent ignored, which were both overlooked by the CA.

Given the two circumstances above, petitioner would convince the Court to reinstate the Labor Arbiter's finding that respondent was not illegally dismissed—for not only did he fail to prove the fact of dismissal, it was he who abandoned his work. Petitioner also postulates that respondent is consequently not entitled to reinstatement, full backwages, and to the other benefits under Art. 279 of the Labor Code. Finally, petitioner likewise questions the basis for the award of attorney's fees.

In his Comment, respondent focuses on the unceremonious manner of his dismissal from service. He directs Our attention to the newspaper clippings and printout of online postings regarding the purported vacancy of the position in the company that he occupied. He reiterates that his dismissal was confirmed by Arcenas and Booth, and that, upon inquiry, he was advised to make a proper turnover of his work to the new purchasing manager. Thus, it is his contention that he never abandoned his post, but was actually illegally dismissed from service. His immediate filing of a