

FIRST DIVISION

[G.R. No. 212070, January 27, 2016]

CEBU PEOPLE'S MULTI-PURPOSE COOPERATIVE AND MACARIO G. QUEVEDO, PETITIONERS, VS. NICERATO E. CARBONILLA, JR., RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated June 25, 2013 and the Resolution^[3] dated March 17, 2014 of the Court of Appeals (CA) in CA-G.R. CEB SP No. 05403, which reversed and set aside the Decision^[4] dated April 29, 2010 and the Resolution^[5] dated June 30, 2010 of the National Labor Relations Commission (NLRC) in NLRC Case No. VAC-10-000977-2009, and accordingly, declared respondent Nicerato E. Carbonilla, Jr. (Carbonilla, Jr.) to have been illegally dismissed by petitioner Cebu People's Multi-Purpose Cooperative (CPMPC).

The Facts

On November 14, 2005, CPMPC hired Carbonilla, Jr. as a Credit and Collection Manager and, as such, was tasked with the handling of the credit and collection activities of the cooperative, which included recommending loan approvals, formulating and implementing credit and collection policies, and conducting trainings.^[6] Sometime in 2007, CPMPC underwent a reorganization whereby Carbonilla, Jr. was also assigned to perform the duties of Human Resources Department (HRD) Manager, *i.e.*, assisting in the personnel hiring, firing, and handling of labor disputes.^[7] In 2008, he was appointed as Legal Officer and subsequently, held the position of Legal and Collection Manager.^[8]

However, beginning February 2008, CPMPC, through its HRD Manager, Ma. Theresa R. Marquez (HRD Manager Marquez), sent various memoranda to Carbonilla, Jr. seeking explanation on the various infractions he allegedly committed. The aforesaid memoranda, as well as his replies thereto, are detailed as follows:

CPMPC S MEMORANDA:	CARBONILLA, JR.'S REPLIES:
<u>HRD 202 File 2008.02.19.017</u> <u>dated February 19, 2008</u> ^[9] - Memorandum relative to his non-attendance to the CLIMBS HOME PROTEK Dinner Meeting.	He claimed that he was belatedly informed and was not given any written notification of the said meeting, and that he did not find any relation of the said meeting to his job as a Legal Officer. ^[10]
<u>HRD 202 File 2008.02.26.034</u> <u>dated February 26, 2008</u> ^[11] -	No reply.

Memorandum relative to his non-submission of Weekly Executive Summary Reports and Itinerary for the months of January and February.	
HRD 202 File 2008.02.26.035 dated February 26, 2008^[12] - Memorandum on why he allowed Joelito Aguipo (Aguipo), a contractual collector for the Bantayan Branch, to drive a motorcycle without a driver's license and not being the owner thereof.	He stated that there was no policy requiring field collectors to own - in a strict legal sense - a motorcycle, but merely to possess the same so he can effect collections more efficiently. Besides, Aguipo was allowed to drive due to the urgency of collecting from the Bantayan Branch. In any case, there is an Affidavit of Undertaking ^[13] exonerating CPMPC from any liability. ^[14]
HRD 202 File 2008.02.26.036 dated February 26, 2008^[15] - Memorandum on why he failed to: (a) account for a motorcycle being used by a former employee under his branch; and (b) reclassify the vehicle of another employee.	He sought clarification of the charges against him, and at the same time, threatened HRD Manager Marquez that if this Memorandum is "proven malicious, [she] might be answerable to a certain degree of civil liability which the 1987 Constitution has given to individuals." ^[16]
HRD 202 File 2008.06.26.086 dated June 26, 2008^[17] - Memorandum on why he insulted his superior, CPMPC Chief Operation Officer Agustina L. Bentillo (COO Bentillo), in front of her subordinates, with the statement: " <i>Ikaw ra may di mosalig ba, ka kwalipikado adto niya, maski mag contest pa mo, lupigon gani ka</i> " ^[18] or "You're the only one who doesn't trust her, she is very qualified, you even lose in comparison to her." ^[19]	He dismissed the charge as made with malicious intent and aimed to discredit his person, claiming that he only had a discussion with his superior, particularly, about Alfonso Vasquez (Vasquez), who was unsystematically pulled out from his department without his consent. He added that if COO Bentillo was indeed offended by his remarks, then it should not have taken almost a month before his attention was called regarding the matter. ^[20]
HRD 202 File 2008.06.26.087 dated June 26, 2008^[21] - Memorandum on his alleged acts of insubordination and gross disrespect when he questioned the authority of HRD Manager Marquez to refuse the hiring of a new staff.	Citing the Philippine Law Dictionary, he explained that "[i]nsubordination means a quality or state of being insubordinate to a person in authority." He maintained that he did not commit insubordination as he merely sought clarification about the deferment of the hiring of a working student by HRD Manager Marquez despite having prior approval of CPMPC Chief Executive Officer (CEO), petitioner Macario G. Quevedo (CEO Quevedo). ^[22]
HRD 202 File 2008.06.26.088	Reiterating the definition of

<p><u>dated June 26, 2008</u>^[23] - Memorandum on his alleged acts of insubordination and gross disrespect when he insisted before CEO Quevedo that he had the authority as Legal and Collection Manager to hire a new staff.</p>	<p>"insubordination" in Philippine Law Dictionary, he maintained that his act of clarifying with the CEO the policy on hiring working students did not constitute insubordination, but rather, was made in the exercise of his right to express.^[24]</p>
<p><u>HRD 202 File 2008.06.27.091</u> <u>dated June 27, 2008</u>^[25] - Memorandum asking Carbonilla, Jr. to turn-over to the officer-in-charge custody of the following documents: Banco de Oro contract on staff loans, CPMPC firearm contracts and licenses, branch offices rentals, and others.^[26]</p>	<p>He only reviewed the subject documents and they were never entrusted to him for safekeeping.^[27]</p>
<p><u>HRD 202 File 2008.07.03.094</u> <u>dated July 3, 2008</u>^[28] - Memorandum on his alleged acts of gross negligence in: (a) failing to submit the employment assessment of one Marcelina M. Remonde (Remonde); (b) promoting one Mary Grace R. Batain (Batain) despite lack of any performance appraisal; (c) failing to report the shortage of Batain amounting to P108,254.55; (d) disseminating a wrong schedule of mediation activity which caused confusion and pressure among branch managers; (e) failing to annotate the encumbrance on the certificate of title offered as collateral to CPMPC; (f) failing to review and verify its contract with the BISDA Security Agency (agency) which exposed CPMPC to third-party liability for failure of the agency to remit the Social Security System, Philhealth and Pag-IBIG premiums of its security guards to the government; (g) failing to inform the branch managers of any settlements or compromise agreements entered into by the head office resulting in confusion as to payments; and (h) failing to submit to HRD Manager Marquez the status of the firearms and licenses assigned to the branch managers.</p>	<p>He interposed the following defenses:^[29] (a) he was not responsible for employment assessments having been transferred to the Legal Department; (b) as then HRD Manager, it was within his discretion to promote Batain whose appointment has been previously concurred in by the CEO; (c) he was not informed of the shortage committed by Batain nor was it within his primary obligation to disclose the same; (d) the printing of invitation was managed only by his legal assistant, Joel Semblante (Semblante) and Vasquez. However, the latter was unexpectedly transferred to another job assignment, leaving only Semblante to do the job, which may have caused the unintentional mistake;^[30] (e) a certain Brenda Dela Cruz was the one responsible for the annotation of the encumbrances of real and personal properties; (f) he was not responsible for the review of the contract between the agency and its security guards as CPMPC had no employer-employee relationship with them; (g) he was unaware of the complaints of the branch managers regarding the payment confusion as a result of settlements or compromise agreements; and (h) it was not his duty to determine the</p>

	status, custody, and licenses of the firearms. ^[31]
HRD 202 File 2008.07.04.095 dated July 4, 2008^[32] - Memorandum on the allegations he made against the CEO during the Board of Directors' inquiry hearing, which constituted gross misconduct, gross disrespect, and loss of trust and confidence.	His acts did not constitute gross misconduct, gross disrespect, or loss of trust and confidence as he only questioned the suspicious transactions of CEO Quevedo regarding the sale of a titled parcel of land owned by the cooperative for an inadequate consideration. He then added that as a member of CPMPC, he has the right to demand transparency of all the transactions made by CEO Quevedo, of which its consequences will affect the cooperative. ^[33]
HRD 202 File 2008.07.08.098 dated July 8, 2008^[34] - Memorandum on his failure to attend the management and operations committee meeting held on July 7, 2008 despite prior notices.	The said meeting was scheduled outside the regular meeting day and he was only informed about it on the day of the meeting at which time, he was personally handling collection cases. ^[35]
HRD 202 File 2008.07.09.103 dated July 9, 2008^[36] - Memorandum relative to the mediation settlements which were forwarded for notarization to one Atty. Miñoza who is not the authorized legal retainer of CPMPC.	He admitted that as head of the Legal Department, he endorsed the documents for notarization to his friend who only charged P50.00 per document as compared to the legal retainers who charged P100.00 per document. He added that "[t]he same is more advantageous and secured rather than having it notarized - by a ' <i>murio-murio</i> ' notary public at the back of the Cebu City Hall. ^[37]
HRD 202 File 2008.07.09.104 dated July 9, 2008^[38] - Memorandum on his failure to update the CEO and management committee of the dismissal of the cases filed by CPMPC against Spouses Alex and Alma Monisit in Civil Case No. R-52633 and against Spouses Helen and Rogelio Lopez in Civil Case No. R-53274.	The two cases were re-filed before the Regional Trial Court on May 29, 2008 as the amounts involved were beyond the jurisdiction of the Municipal Trial Court (MTC). He also explained that he was not aware of the filing of these cases before the MTC as he was occupying the position of the HRD Manager at that time. ^[39]
HRD 202 File 2008.07.15.106 dated July 15, 2008^[40] - Memorandum relative to Carbonilla, Jr.'s instruction to Semblante to pull out important records and vital documents, <i>i.e.</i> , Compromise/Settlement Agreement, Mediation Tracking Form, Agreement to	He explained that as head of the Legal Department, he was responsible for the proper disposal of all legal documents and contracts, and the cancellation of said documents were done to protect the interest of the cooperative. Moreover, he claimed that the

Mediate, Mediator's Report, Evaluation of Mediation, among others, from the head office without the knowledge and approval of the management, which documents were later on returned tampered and altered.	erasures were caused by the cancellation of the notarial subscription since Carbonilla, Jr. found the requirements of the notary public - which required all 125 respondents to appear personally and present their community tax certificates - impractical. Moreover, he claimed that the cancellation of the documents "was not for the purpose of falsifying or tampering the same[,] but merely to protect the interest of the cooperative against possible sanctions [or] circulating bogus documents." ^[41]
HRD 202 File 2008.07.16.107 dated July 16, 2008 ^[42] - Memorandum relative to the unliquidated cash advances of the notarial transactions of the mediation agreements. ^[43]	The delay in liquidation was due to the "agreement" he had with the notary public about the disposition of the notarized documents. He claimed that in the afternoon of the same day, he turned over the amount of P6,250.00 to the Accounting Department. ^[44]
HRD 202 File 2008.07.19.111 dated July 19, 2008 ^[45] - Memorandum on the alleged tampering and loss of CPMPC's vital records and documents, <i>i.e.</i> , two (2) copies of the compromise settlement agreement.	No reply.

Unconvinced by Carbonilla, Jr.'s explanations, CPMPC scheduled several clarificatory hearings,^[46] but the former failed to attend despite due notice.^[47] Later, CPMPC conducted a formal investigation where it ultimately found Carbonilla, Jr. to have committed acts prejudicial to CPMPC's interests.^[48] As such, CPMPC, CEO Quevedo, sent Carbonilla, Jr. a Notice of Dismissal^[49] dated August 5, 2008 informing the latter of his termination on the grounds of: (a) loss of trust and confidence; (b) gross disrespect; (c) serious misconduct; (d) gross negligence; (e) commission of a crime of falsification/inducing Aguipo to violate the law or the Land Transportation and Traffic Code; and (e) committing acts highly prejudicial to the interest of the cooperative.^[50]

Consequently, Carbonilla, Jr. filed the instant case for illegal dismissal, non-payment of salaries, 13th month pay, as well as damages and backawages, against CPMPC, before the NLRC, docketed as NLRC RAB VII-08-1856-2008.^[51] In support of his claims, Carbonilla, Jr. denied the administrative charges against him, asserting that the Management and Board of Directors of CPMPC merely orchestrated means to unjustly dismiss him from employment.^[52]

In defense, CPMPC maintained that the totality of Carbonilla, Jr.'s infractions was sufficient to warrant his dismissal, and that it had complied with the procedural due