

FIRST DIVISION

[G.R. No. 214399, June 28, 2016]

ARMANDO N. PUNCIA, PETITIONER, VS. TOYOTA SHAW/PASIG, INC., RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated June 9, 2014 and the Resolution^[3] dated September 23, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 132615, which annulled and set aside the Decision^[4] dated February 14, 2013 and the Resolution^[5] dated August 30, 2013 of the National Labor Relations Commission (NLRC) in NLRC NCR CN. 10-15949-11/NLRC LAC No. 07-001991-12 and instead, reinstated the Decision^[6] dated May 4, 2012 of the Labor Arbiter (LA) finding that respondent Toyota Shaw/Pasig, Inc. (Toyota) validly dismissed petitioner Armando N. Puncia (Puncia) for just cause.

The Facts

Puncia alleged that since 2004, he worked as a messenger/collector for Toyota and was later on appointed on March 2, 2011 as a Marketing Professional^[7] tasked to sell seven (7) vehicles as monthly quota.^[8] However, Puncia failed to comply and sold only one (1) vehicle for the month of July and none for August,^[9] prompting Toyota to send him a Notice to Explain.^[10] In reply,^[11] Puncia stated that as a trainee, he was only required to sell three (3) vehicles per month; that the month of May has always been a lean month; and that he was able to sell four (4) vehicles in the month of September.^[12] Thereafter, a hearing was conducted but Puncia failed to appear despite notice.^[13]

On October 18, 2011, Toyota sent Puncia a Notice of Termination,^[14] dismissing him on the ground of insubordination for his failure to attend the scheduled hearing and justify his absence.^[15] This prompted Puncia to file a complaint^[16] for illegal dismissal with prayer for reinstatement and payment of backwages, unfair labor practice, damages, and attorney's fees against Toyota and its officers, claiming, *inter alia*, that Toyota dismissed him after discovering that he was a director of the Toyota-Shaw Pasig Workers Union-Automotive Industry Worker's Alliance; and that he was terminated on the ground of insubordination and not due to his failure to meet his quota as contained in the Notice to Explain.^[17]

In its defense, Toyota denied the harassment charges and claimed that there was a valid cause to dismiss Puncia, considering his failure to comply with the company's strict requirements on sales quota. It likewise stated that Puncia has consistently violated the company rules on attendance and timekeeping as several disciplinary

actions were already issued against him.^[18]

The LA Ruling

In a Decision^[19] dated May 4, 2012, the LA dismissed Puncia's complaint for lack of merit, but nevertheless, ordered Toyota to pay Puncia his money claims consisting of his earned commissions, 13th month pay for 2011, sick leave, and vacation leave benefits.^[20]

The LA found that Puncia was dismissed not because of his involvement in the labor union, but was terminated for a just cause due to his inefficiency brought about by his numerous violations of the company rules on attendance from 2006 to 2010 and his failure to meet the required monthly quota.^[21] This notwithstanding, the LA found Puncia entitled to his money claims, considering that Toyota failed to deny or rebut his entitlement thereto.^[22]

Aggrieved, Puncia appealed^[23] to the NLRC.

The NLRC Ruling

In a Decision^[24] dated February 14, 2013, the NLRC reversed the LA ruling and, accordingly, declared Puncia to have been illegally dismissed by Toyota, thus, entitling him to reinstatement and backwages.^[25] The NLRC found that Toyota illegally dismissed Puncia from employment as there were no valid grounds to justify his termination. Moreover, the NLRC observed that Toyota failed to comply with the due process requirements as: *first*, the written notice served on the employee did not categorically indicate the specific ground for dismissal sufficient to have given Puncia a reasonable opportunity to explain his side, since the Intra-Company Communication^[26] providing the company rules failed to explain in detail that Puncia's deficiency merited the penalty of dismissal;^[27] and *second*, Puncia's dismissal was not based on the same grounds cited in the Notice to Explain, since the ground indicated was Puncia's failure to meet the sales quota, which is different from the ground stated in the Notice of Termination, which is his unjustified absence during the scheduled hearing.^[28]

Both parties filed their separate motions for reconsideration,^[29] which were denied in a Resolution^[30] dated August 30, 2013.

Aggrieved, Toyota filed a Petition for *Certiorari*^[31] before the CA, which was docketed as CA-G.R. SP No. 132615 and was raffled to the First Division (CA-First Division). In the same vein, Puncia filed his Petition for *Certiorari*^[32] before the CA, which was docketed as CA-G.R. SP No. 132674 and was raffled to the Eleventh Division (CA-Eleventh Division).^[33]

The CA Proceedings

In a Resolution^[34] dated November 29, 2013, the CA-Eleventh Division dismissed outright CA-G.R. SP No. 132674 on procedural grounds. Consequently, Puncia filed

an Omnibus Motion (For Consolidation and Reconsideration of Order of November 29, 2013)^[35] and a Supplement to the Omnibus Motion,^[36] seeking the consolidation of CA-G.R. SP No. 132674 with CA-G.R. SP No. 132615.

In a Resolution^[37] dated January 24, 2014, the CA-First Division denied the motion for consolidation on the ground that CA-G.R. SP No. 132674 was already dismissed by the CA-Eleventh Division. Thereafter, **and while CA-G.R. SP No. 132674 remained dismissed**, the CA-First Division promulgated the assailed Decision^[38] dated June 9, 2014 (June 9, 2014 Decision) in CA-G.R. SP No. 132615 annulling and setting aside the NLRC ruling and reinstating that of the LA. It held that Toyota was able to present substantial evidence in support of its contention that there was just cause in Puncia's dismissal from employment and that it was done in compliance with due process, considering that: (a) Puncia's repeated failure to meet his sales quota constitutes gross inefficiency and gross neglect of duties; and (b) Puncia was afforded due process as he was able to submit a written explanation within the period given to him by Toyota.^[39]

Dissatisfied, Puncia filed a motion for reconsideration,^[40] which the CA-First Division denied in the assailed Resolution^[41] dated September 23, 2014 (September 23, 2014 Resolution).

Meanwhile, in a Resolution^[42] dated July 22, 2014, the CA-Eleventh Division reconsidered its dismissal of CA-G.R. SP No. 132674, and accordingly, reinstated the same and ordered Toyota to file its comment thereto.

In view of the foregoing, Puncia filed the instant petition^[43] mainly contending that the rulings in CA-G.R. SP No. 132615, *i.e.*, the assailed June 9, 2014 Decision and September 23, 2014 Resolution, should be set aside and the case be remanded back to the CA for consolidation with CA-G.R. SP No. 132674 so that both cases will be jointly decided on the merits.^[44]

For its part,^[45] Toyota maintained that the CA-First Division correctly promulgated its June 9, 2014 Decision in CA-G.R. SP No. 132615, considering that at the time of promulgation, there was no other pending case before the CA involving the same issues and parties as CA-G.R. SP No. 132674 was dismissed by the CA-Eleventh Division on November 29, 2013, and was only reinstated on July 22, 2014.^[46]

The Issues Before the Court

The issues for the Court's resolution are (a) whether or not the CA-First Division correctly promulgated its June 9, 2014 Decision in CA-G.R. SP No. 132615 without consolidating the same with CA-G.R. SP No. 132674; and (b) whether or not Puncia was dismissed from employment for just cause.

The Court's Ruling

The petition is denied.

At the outset, the Court notes that consolidation of cases is a procedure sanctioned by the Rules of Court for actions which involve a common question of law or fact

before the court.^[47] It is a procedural device granted to the court as an aid in deciding how cases in its docket are to be tried so that the business of the court may be dispatched expeditiously and with economy while providing justice to the parties.^[48]

The rationale for consolidation is to have all cases, which are intimately related, acted upon by one branch of the court to avoid the possibility of conflicting decisions being rendered^[49] and in effect, prevent confusion, unnecessary costs,^[50] and delay.^[51] It is an action sought to avoid multiplicity of suits; guard against oppression and abuse; clear congested dockets; and to simplify the work of the trial court in order to attain justice with the least expense and vexation to the parties-litigants.^[52]

In order to determine whether consolidation is proper, the test is to check whether the cases involve the **resolution** of common questions of law, related facts,^[53] or the same parties.^[54] Consolidation is proper whenever the subject matter involved and the relief demanded in the different suits make it expedient for the court to determine all of the issues involved and adjudicate the rights of the parties by hearing the suits together.^[55] **However, it must be stressed that an essential requisite of consolidation is that the several actions which should be pending before the court, arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence.**^[56] As succinctly stated in the rules, consolidation is allowed when there are **similar actions which are pending before the court**^[57] - for there is nothing to consolidate when a matter has already been resolved and the very purpose of consolidation, to avoid conflicting decisions and multiplicity of suits, rendered futile. The Court's pronouncement in *Honoridez v. Mahinay*,^[58] is instructive on this matter, to wit:

Petitioners attempt to revive the issues in Civil Case No. CEB-16335 by moving for the consolidation of the same with Civil Case No. CEB-23653. **Under Section 1, Rule 31 of the Rules of Court, only pending actions involving a common question of law or fact may be consolidated.** Obviously, petitioners cannot make out a case for consolidation in this case since Civil Case No. CEB-16335, the case which petitioners seek to consolidate with the case *a quo*, has long become final and executory; as such, it cannot be re-litigated in the instant proceedings without virtually impeaching the correctness of the decision in the other case. Public policy abhors such eventuality.^[59] (Emphasis and underscoring supplied)

In the instant case, while there were indeed two (2) separate petitions filed before the CA assailing the Decision dated February 14, 2013 and the Resolution dated August 30, 2013 of the NLRC in NLRC NCR CN. 10-15949-11/NLRC LAC No. 07-001991-12, *i.e.*, CA-G.R. SP No. 132615 and CA-G.R. SP No. 132674, it must nevertheless be stressed that CA-G.R. SP No. 132674 was dismissed by the CA-Eleventh Division as early as November 29, 2013 due to procedural grounds. This fact was even pointed out by the CA-First Division in its Resolution^[60] dated January 24, 2014 when it held that CA-G.R. SP No. 132674 could no longer be consolidated with CA-G.R. SP No. 132615 since the former case had already been dismissed.

From that point until the CA-First Division's promulgation of the assailed June 9, 2014 Decision in CA-G.R. SP No. 132615, no consolidation between CA-G.R. SP No. 132615 and CA-G.R. SP No. 132674 could take place mainly because the latter case remained dismissed during that time. In other words, when the CA-First Division promulgated its ruling in CA-G.R. SP No. 132615, it was the **one and only** case pending before the CA assailing the aforesaid NLRC rulings. Therefore, the CA-First Division acted within the scope of its jurisdiction when it promulgated its ruling in CA-G.R. SP No. 132615 without having the case consolidated with CA-G.R. SP No. 132674, notwithstanding the latter case's reinstatement **after** said promulgation.

It should be emphasized that the consolidation of cases is aimed to simplify the proceedings as it contributes to the swift dispensation of justice.^[61] As such, it is addressed to the sound discretion of the court and the latter's action in consolidation will not be disturbed in the absence of manifest abuse of discretion tantamount to an evasion of a positive duty or a refusal to perform a duty enjoined by law,^[62] which is absent in this case.

The foregoing notwithstanding, the Court deems it appropriate to look into the issue of the validity of Puncia's dismissal so as to finally resolve the main controversy at hand.

In his petition, Puncia insists that the CA gravely erred in upholding his dismissal, considering that the administrative proceeding against him was due to his failure to meet his monthly sales quota, but he was dismissed on the ground of gross insubordination.^[63] On the other hand, Toyota maintains that the CA correctly declared Puncia's termination to be valid and in compliance with due process.^[64]

It is settled that "for a dismissal to be valid, the rule is that the employer must comply with both substantive and procedural due process requirements. Substantive due process requires that the dismissal must be pursuant to either a just or an authorized cause under Articles 297, 298 or 299 (formerly Articles 282, 283, and 284)^[65] of the Labor Code. Procedural due process, on the other hand, mandates that the employer must observe the twin requirements of notice and hearing before a dismissal can be effected."^[66] Thus, to determine the validity of Puncia's dismissal, there is a need to discuss whether there was indeed just cause for his termination.

In the instant case, records reveal that as a Marketing Professional for Toyota, Puncia had a monthly sales quota of seven (7) vehicles from March 2011 to June 2011. As he was having trouble complying with said quota, Toyota even extended him a modicum of leniency by lowering his monthly sales quota to just three (3) vehicles for the months of July and August 2011; but even then, he still failed to comply.^[67] In that six (6)-month span, Puncia miserably failed in satisfying his monthly sales quota, only selling a measly five (5) vehicles out of the 34 he was required to sell over the course of said period. Verily, Puncia's repeated failure to perform his duties - *i.e.*, reaching his monthly sales quota - for such a period of time falls under the concept of gross inefficiency. In this regard, case law instructs that "gross inefficiency" is analogous to "gross neglect of duty," a just cause of dismissal under Article 297 of the Labor Code, for both involve specific acts of omission on the part of the employee resulting in damage to the employer or to his business.^[68] In