

THIRD DIVISION

[G.R. No. 169967, November 23, 2016]

COCA-COLA BOTTLERS PHILS., INC., EMMANUEL CURA, ANGEL LABAO, ALMEDO LOPEZ, AND RUSTOM ALEJANDRINO, PETITIONERS, V. IBM LOCAL I, REGNER SANGALANG AND ROLANDO NACPIL, RESPONDENTS.

[G.R. No. 176074, November 23, 2016]

REGNER A. SANGALANG AND ROLANDO V. NACPIL, PETITIONERS, V. COCA-COLA BOTTLERS PHILS., INC. (CCBPI), EMMANUEL CURA, ANGEL LABAO, AND RUSTOM ALEJANDRINO, RESPONDENTS.

[G.R. No. 176205, November 23, 2016]

COCA-COLA BOTTLERS PHILS., INC., EMMANUEL CURA, ANGEL LABAO, AND RUSTOM ALEJANDRINO, PETITIONERS, V. REGNER A. SANGALANG AND ROLANDO NACPIL; RESPONDENTS.

DECISION

REYES, J.:

These three (3) consolidated petitions for review on *certiorari*^[1] under Rule 45 of the Rules of Court stemmed from a complaint for illegal dismissal filed by Regner A. Sangalang (Sangalang) and Rolando Nacpil (Nacpil) (collectively, the complainants) against Coca-Cola Bottlers Philippines, Inc. (CCBPI).

Antecedents

The facts are as follows:

Sangalang and Nacpil were hired by CCBPI on July 1, 1983 and July 16, 1972, respectively, as assistant syrupmen. They were assigned at the syrup room production department of CCBPI's San Fernando City, Pampanga plant.^[2] The assistant syrupman in CCBPI had the following duties and responsibilities,^[3] to wit:

1. PERFORMS ALL DUTIES OF THE SYRUP MAN AS MAY BE ASSIGNED OR DELEGATED BY THE SYRUP MAN OR BY THE PRODUCTION SUPERVISOR.
2. ACTS AS SYRUP MAN IN THE LATTER'S ABSENCE AND MEALBREAKS.
3. RESPONSIBLE FOR THE MAINTENANCE, CLEANLINESS, AND SMOOTH OPERATION OF THE SUGAR DUMPER AND ITS ACCESSORIES.

4. KEEPING AND CLEANLINESS OF THE PLAIN SYRUP ROOM, FILTER PRESS ROOM, AND FLAVORED SYRUP ROOM.
5. RESPONSIBLE FOR THE MAINTENANCE, CLEANLINESS, AND SMOOTH OPERATION OF THE VENTILATION FANS AND AIR CONDITIONING UNITS.
6. DUMPS THE REQUIRED AMOUNT AND TYPE OF SUGAR IN THE PLAIN SYRUP TANK DURING SYRUP PREPARATION.
7. POURS THE FLAVORING MATERIALS ON THE FLAVORED SYRUP TANK AS PER STANDARD MIXING INSTRUCTIONS.
8. CHECKS THE TOP OF SYRUP TANKS FOR OIL LEAKS FROM THE SPEED REDUCER OF THE PROPELLER.
9. RESPONSIBLE FOR THE PROPER STOCKING OF ALL MATERIALS IN THE SYRUP ROOM.
10. REMOVES ALL EMPTY FIGALS, JUGS, BOXES, SEALS FROM THE FLAVORING MATERIALS USED AND DISPOSE THEM PROPERLY OUTSIDE THE SYRUP ROOM.
11. DURING THE WEEKEND MAINTENANCE AND CLEANING ACTIVITIES.
12. PERFORMS OTHER RELATED TASKS AND DUTIES THAT MAY BE ASSIGNED BY THE PRODUCTION SUPERVISOR.^[4]

As a nationwide company practice, the duty of dumping caps/crowns belonged to the assistant syrupmen. In CCBPI's San Fernando City plant, however, this activity was passed on to the utility men sometime in 1982. After the positions of utility men were abolished, CCBPI engaged the services of independent contractors to perform the said activity and other allied services.^[5]

On July 13, 2000, Quality Control Superintendent Angel T. Labao and Process Supervisor Jose P. Diaz held a meeting with the assistant syrupmen to advise the concerned employees of the management's decision to revert the duty of dumping caps/crowns to the assistant syrupmen which was supposed to be among the duties and responsibilities incumbent in said position in all of CCBPI's plants. The employees concerned, however, suggested that CCBPI instead regularize the contractual employees who were performing the dumping task because they feared that they might be held responsible for damages that CCBPI may suffer in carrying out two important tasks of production, namely, the preparation of syrup and dumping caps/crown at the cap bin.^[6]

On August 16, 2000, another meeting was held to notify the assistant syrupmen that the proposed dumping activity was within their job description. The assistant syrupmen were likewise informed that a dry run will be held on August 17, 2000 and its full implementation shall commence on August 21, 2000.^[7] The following day after the dry run, CCBPI issued a Memorandum containing the dumping activity schedule which was sent to and received by the concerned employees, including the complainants.^[8]

On August 22, 2000, Line 1 Production Supervisor Jovir Tomanan sent a Memorandum^[9] to the management to report that the complainants refused to comply with CCBPI's order pertaining to the dumping of caps/crown on the ground that the same was not part of their responsibilities.

On the same day, CCBPI immediately sent a Notice to Explain^[10] to the complainants, requiring them to explain in writing why no disciplinary action should be imposed against them for violating CCBPI's Code of Disciplinary Rules and Regulation (Code of Discipline). The notice reads as follows:

Please explain in writing within twenty[-]four (24) hours, upon receipt hereof, why no disciplinary action should be imposed against you for violation of Section 22, Rule 003-85-Insubordination or Willful disobedience in complying with, or carrying out reasonable and valid order or instruction of superiors.

As per attached incident report of Mr. Jovir Tomanan you refused to dump resealable caps closures at the cap bin of Line 1 causing stoppage of bottl[ing] operations during the 2nd shift operation of Line 1 on August 21, 2000 based on the schedule of crowns and caps dumping as per memo dated August 18, 2000.^[11]

Section 22, Rule 003-85 of CCBPI's Code of Discipline provides:

Sec. 22. Insubordination or willful disobedience in complying with, or carrying out reasonable and valid order or instructions of superiors, whether committed within a calendar year or not, analogous cases:

First offense	15 days suspension
Second offense	30 days suspension
Third offense	DISCHARGE ^[12]

On the same day, the complainants submitted a letter and denied that the stoppage of the bottling operations was attributable to them. They claimed that the same was deliberately stopped by the Bottling Supervisor with the intention of passing the blame to them as a result of their refusal to perform the dumping activity. Also, the letter stated that they will submit the required written explanation after consultation with their counsel.^[13]

On August 23, 2000, the complainants did not again perform the dumping activity by refusing to accept the key to the dumping area when the Line 1 Production Supervisor on duty, Edgar M. Reyes, handed it to them.^[14]

On the same day, CCBPI issued a Notice of Investigation^[15] to the complainants for violation of Section 22, Rule 003-85 of CCBPI's Code of Discipline on August 21, 2000.

Meanwhile, on August 24, 2000, the complainants were served a second Notice to Explain^[16] for violation of the same Code of Discipline's provision for their failure to perform the dumping activity on August 23, 2000.

On August 24, 2000, the complainants again refused to accept the key to the dumping area and perform the assigned duty to dump caps/crowns. Accordingly, a third Notice to Explain^[17] dated August 25, 2000 was served to require them to explain why they should not be held liable for violation of the Code of Discipline. Additionally, the complainants were placed under preventive suspension for 30 days from August 26, 2000 to September 24, 2000 pursuant to Article III, Section 4 of the Collective Bargaining Agreement and Sections 3 and 4 of Rule XIV, Book V of the Implementing Rules and Regulations of the Labor Code. Also, on the same day, CCBPI issued a second Notice of Investigation^[18] against the complainants for their August 23, 2000 violation.

On September 1, 2000, CCBPI issued a Notice of Consolidation of Investigation^[19] informing the complainants of the scheduled investigation on September 4, 2000 for their alleged insubordination during the scheduled dumping of cap/crowns on August 21, 23, and 24, 2000. The same, however, was re-scheduled to September 5, 2000 upon the request of the union's counsel and union officer Alfredo Maranon.^[20]

On September 5, 2000, the consolidated investigation for violation of Section 22, Rule 003-85 of the CCBPI's Code of Discipline in relation to Article 282 of the Labor Code on insubordination, willful disobedience, and serious misconduct was conducted. During the investigation, the complainants' counsel opted to submit a joint affidavit in lieu of a question and answer type of investigation.^[21]

After review and deliberations, CCBPI issued on September 22, 2000 an Inter-Office Memorandum,^[22] where it found the complainants guilty of the offenses charged and meted a penalty of dismissal effective on September 25, 2000. Consequently, the complainants filed a Complaint^[23] for illegal dismissal where they asked, among others, to be reinstated to their former positions.

On December 14, 2001, the Labor Arbiter (LA) rendered a Decision^[24] declaring the complainants to have been illegally dismissed after finding CCBPI's order for the reversion of the duty of clumping caps/crown to the assistant syrupmen unreasonable and unlawful. Thus, the LA ruled that the complainants' refusal to perform such additional duty was justified. The dispositive portion reads as follows:

WHEREFORE, foregoing premises considered, judgment is hereby rendered declaring as illegal the termination of the complainants. Respondents [CCBPI], Virgilio Olivarez, Emmanuel L. Cura, Angel Labao, Almedo Lopez and Rustum R. Alejandrino are hereby ordered to cause the immediate actual or payroll reinstatement of the complainants. Further, the named respondents are hereby enjoined to jointly and solidarily pay complainants the total amount of **FOUR HUNDRED FIVE THOUSAND and FORTY[-]THREE PESOS AND 30/100 (P405,043.30)** representing complainants' full backwages. Further, respondents are ordered to pay complainants attorney's fees equivalent to ten [percent] (10%) of the total monetary award.

In the event that reinstatement could no longer be attained, respondents are hereby ordered to pay complainants their separation pay in the total amount of **SIX HUNDRED NINE THOUSAND THREE HUNDRED TWELVE PESOS AND 08/100 (P609,312.08)** in addition to their backwages.

SO ORDERED.^[25]

Aggrieved, CCBPI consequently filed its appeal to the National Labor Relations Commission (NLRC). On June 28, 2002, the NLRC issued a Decision^[26] reversing the LA's decision. The NLRC declared that the LA encroached on CCBPI's prerogative to conduct its business when it ruled that CCBPI should have just instead regularized its contractual employees who were already carrying out the said task. Further, the NLRC ruled that the LA erred when it considered the three-day refusal of the complainants as one act of insubordination. It ruled that in three occasions, the complainants were found by CCBPI to have violated its Code of Discipline, which clearly merits the penalty of dismissal. However, the NLRC stated that the offense did not involve moral turpitude; thus, it ordered CCBPI to award the complainants separation pay. It disposed, to wit:

WHEREFORE, premises considered, the 14 [December] 2001 [Decision] of Executive [LA] is hereby Reversed and Set Aside and a new one entered Dismissing the instant complaint for lack of merit. Respondents, however, is directed to grant financial assistance to the complainants in the amount equivalent to one-half (1/2) month salary per year of service.

SO ORDERED.^[27]

Both parties moved for the reconsideration^[28] of the NLRC decision. On October 18, 2004, the NLRC issued a Decision^[29] denying both motions for reconsiderations but with modification that the complainants be awarded financial assistance of one (1) month salary for every year of service.

WHEREFORE, complainants-appellees' Motion for Reconsideration and respondents-appellants' Motion for Reconsideration are DENIED.

Accordingly, We AFFIRM our June 28, 2002 decision with the modification that [the complainants] are awarded financial assistance of one (1) month salary for every year of service.

SO ORDERED.^[30]

Unable to agree, both parties filed their respective petitions for certiorari under Rule 65 with the Court of Appeals (CA) assailing the decision of the NLRC.^[31]

CCBPI's appeal to the CA was docketed as CA-G.R. SP. No. 88026, assigned to the 3rd Division of the CA. CCBPI questioned the decision of the NLRC as to the award of financial assistance in favor of the complainants in the amount of one (1) month pay for every year of service.^[32]

Meanwhile, the complainants' appeal was docketed as CA-G.R. SP No. 87997, assigned to the CA 17th Division. They claimed that the NLRC erred and committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it reversed the decision of the LA, which was contrary to law and evidence on records. They likewise assailed the decision of the NLRC in denying their claim for damages and litigation costs.^[33]

Regrettably, these two appeals of the parties were not consolidated in the CA.