746 PHIL. 172

SECOND DIVISION

[G.R. No. 194884, October 22, 2014]

IMASEN PHILIPPINE MANUFACTURING CORPORATION, PETITIONER, VS. RAMONCHITO T. ALCON AND JOANN S. PAPA, RESPONDENTS.

D E C I S I O N

BRION, J.:

We resolve in this petition for review on *certiorari*[1] the challenge to he June 9, 2010 decision[2] and the December 22, 2010 resolution[3] of the Court of Appeals *(CA)* in CA-G.R. SP No. 110327. This CA decision nullified the December 24, 2008 decision[4] of the National Labor Relations Commission *(NLRC)* in NLRC CA No. 043915-05 (NLRC CASE No. RAB IV-12-1661-02-L). The NLRC ruling, in turn, affirmed the December 10, 2004 decision[5] of the Labor Arbiter *(LA)*, dismissing the illegal dismissal complaint filed by respondents Ramonchito T. ***Alcon*** and Joann S. ***Papa*** (collectively referred to as *respondents*).

The Factual Antecedents

Petitioner ***Imasen*** Philippine Manufacturing Corporation is a domestic corporation engaged in the manufacture of auto seat-recliners and slide-adjusters. It hired the respondents as manual welders in 2001.

On ***October 5, 2002***, the respondents reported for work on the second shift - from 8:00 pm to 5:00 am of the following day. At around 12:40 am, Cyrus A. ***Altiche***, Imasen's security guard on duty, went to patrol and inspect the production plant's premises. When Altiche reached Imasen's Press Area, he heard the sound of a running industrial fan. Intending to turn the fan off, he followed the sound that led him to the plant's "Tool and Die" section.

At the "Tool and Die" section, Altiche saw the respondents having sexual intercourse on the floor, using a piece of carton as mattress. Altiche immediately went back to the guard house and relayed what he saw to Danilo S. ***Ogana***, another security guard on duty.

On Altiche's request, Ogana made a follow-up inspection. Ogana went to the "Tool and Die" section and saw several employees, including the respondents, already leaving the area. He noticed, however, that Alcon picked up the carton that Altiche claimed the respondents used as mattress during their sexual act, and returned it to the place where the cartons were kept. Altiche then submitted a handwritten report[6] of the incident to Imasen's Finance and Administration Manager.

On October 14, 2002, Imasen issued the respondents separate interoffice

memoranda[7] informing them of Altiche's report on the October 5, 2002 incident and directing them to submit their individual explanation. The respondents complied with the directive; they claimed that they were merely sleeping in the "Tool and Die" section at the time of the incident. They also claimed that other employees were near the area, making the commission of the act charged impossible.

On October 22, 2002, Imasen issued the respondents another interoffice memorandum[8] directing them to appear at the formal hearing of the administrative charge against them. The hearing was conducted on October 30, 2002,[9] presided by a mediator and attended by the representatives of Imasen, the respondents, Altiche and Ogana. Altiche and Ogana reiterated the narrations in Altiche's handwritten report.

On December 4, 2002, Imasen issued the respondents separate interoffice memoranda[10] terminating their services. It found the respondents guilty of the act charged which it considered as "gross misconduct contrary to the existing policies, rules and regulations of the company."

On December 5, 2002, the respondents filed before the LA the complaint[11] for illegal dismissal. The respondents maintained their version of the incident.

In the December 10, 2004 decision,[12] the LA dismissed the respondents' complaint for lack of merit. The LA found the respondents' dismissal valid, *i.e.*, for the just cause of gross misconduct and with due process. The LA gave weight to Altiche's account of the incident, which Ogana corroborated, over the respondents' mere denial of the incident and the unsubstantiated explanation that other employees were present near the "Tool and Die" section, making the sexual act impossible. The LA additionally pointed out that the respondents did not show any ill motive or intent on the part; of Altiche and Ogano sufficient to render their accounts of the incident suspicious.

The NLRC"s ruling

In its December 24, 2008 decision,[13] the NLRC dismissed the respondents' appeal[14] for lack of merit. In affirming the LA's ruling, the NLRC declared that Imasen substantially and convincingly proved just cause for dismissing the respondents and complied with the required due process.

The respondents filed before the CA a petition for *certiorari*[15] after the NLRC denied their motion for reconsideration[16] in its May 29, 2009 resolution.[17]

The CA's ruling

In its June 9, 2010 decision,[18] the CA nullified the NLRC's ruling. The CA agreed with the labor tribunals' findings regarding the infraction charged - engaging in sexual intercourse on October 5, 2002 inside company premises - and Imasen's observance of due process in dismissing the respondents from employment.

The CA, however, disagreed with the conclusion that the respondents' sexual intercourse inside company premises constituted serious misconduct that the Labor

Code considers sufficient to justify the penalty of dismissal. The CA pointed out that the respondents' act, while provoked by "reckless passion in an inviting environment and time," was not done with wrongful intent or with the grave or aggravated character that the law requires. To the CA, the penalty of dismissal is not commensurate to the respondents' act, considering especially that the respondents had not committed any infraction in the past.

Accordingly, the CA reduced the respondents' penalty to a three-month suspension and ordered Imasen to: (1) reinstate the respondents to their former position without loss of seniority rights and other privileges; and (2) pay the respondents backwages from December 4, 2002 until actual reinstatement, less the wages corresponding to the three-month suspension.

Imasen filed the present petition after the CA denied its motion for reconsideration[19] in the CA's December 22, 2010 resolution.[20]

The Petition

Imasen argues in this petition that the act of engaging in sexual intercourse inside company premises during work hours is serious misconduct by whatever standard it is measured. According to Imasen, the respondents' infraction is an affront to its core values and high ethical work standards, and justifies the dismissal. When the CA reduced the penalty from dismissal to three-month suspension, Imasen points out that the CA, in effect, substituted its own judgment with its (Imasen's) own legally protected management prerogative.

Lastly, Imasen questions the CA's award of backwages in the respondents' favor. Imasen argues that the respondents would virtually gain from their infraction as they would be paid eight years worth of wages without having rendered any service; eight (8) years, in fact, far exceeds their actual period of service prior to their dismissal.

The Case for the Respondents

The respondents argue in their comment[21] that the elements of serious misconduct that justifies an employee's dismissal are absent in this case, adopting thereby the CA's ruling. Hence, to the respondents, the CA correctly reversed the NLRC's ruling; the CA, in deciding the case, took a wholistic consideration of all the attendant facts, i.e., the time, the place, the persons involved, and the surrounding circumstances before, during, and after the sexual intercourse, and not merely the infraction committed.

The Issue

The sole issue for this Court's resolution is whether the respondents' infraction — engaging in sexual intercourse inside company premises during work hours — amounts to serious misconduct within the terms of Article 282 (now Article 296) of the Labor Code justifying their dismissal.

The Court's Ruling

We GRANT the petition.

We find that the CA reversibly erred when it nullified the NLRC's decision for grave abuse of discretion the NLRC's decision.

Preliminary considerations: tenurial security vis-a-vis management prerogative

The law and jurisprudence guarantee to every employee security of tenure. This textual and the ensuing jurisprudential commitment to the cause and welfare of the working class proceed from the social justice principles of the Constitution that the Court zealously implements out of its concern for those with less in life. Thus, the Court will not hesitate to strike down as invalid any employer act that attempts to undermine workers' tenurial security. All these the State undertakes under Article 279 (now Article 293)[22] of the Labor Code which bar an employer from terminating the services of an employee, except for just or authorized cause and upon observance of due process.

In protecting the rights of the workers, the law, however, does not authorize the oppression or self-destruction of the employer.[23] The constitutional commitment to the policy of social justice cannot be understood to mean that every labor dispute shall automatically be decided in favor of labor.[24] The constitutional and legal protection equally recognize the employer's right and prerogative to manage its operation according to reasonable standards and norms of fair play.

Accordingly, except as limited by special law, an employer is free to regulate, according to his own judgment and discretion, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, tools to be used, processes to be followed, supervision of workers, working regulations, transfer of employees, worker supervision, layoff of workers and t**he discipline, dismissal and recall of workers.**[25] As a general proposition, an employer has free reign over every aspect of its business, including the dismissal of his employees as long as the exercise of its *management prerogative* is done reasonably, in good faith, and in a manner not otherwise intended to defeat or circumvent the rights of workers.

In these lights, the Court's task in the present petition is to balance the conflicting rights of the respondents to security of tenure, on one hand, and of Imasen to dismiss erring employees pursuant to the legitimate exercise of its management prerogative, on the other.

Management's right to dismiss an employee; serious misconduct as just cause for the dismissal

The just causes for dismissing an employee are provided under Article 282[26] (now Article 296)[27] of the Labor Code. Under Article 282(a), serious misconduct by the employee justifies the employer in terminating his or her employment.