

SECOND DIVISION

[G.R. No. 189457, April 07, 2011]

SUNRISE HOLIDAY CONCEPTS, INC., Petitioner, vs. TERESA A. ARUGAY, Respondent.

DECISION

NACHURA, J.:

Before the Court is a petition for review on certiorari, assailing the Amended Decision^[1] dated April 7, 2009 and the Resolution^[2] dated September 2, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 100227.

The Facts

Version of the Employee

On February 16, 2004, respondent was engaged by petitioner as Collection Manager under a six (6)-month probationary period. She was promised a compensation of Sixteen Thousand Pesos (P16,000.00) plus Two Thousand Pesos (P2,000.00), which shall be adjusted to Twenty-Five Thousand Pesos (P25,000.00) at the end of the 6-month probationary period. After six (6) months, respondent continued to work for petitioner company but it made no salary adjustment.^[3]

As part of her functions, respondent coordinated largely with her four (4) collectors and with clients, numbering more than two thousand (2,000), from whom she was collecting existing accounts for petitioner company. In the exercise of her functions, respondent made use of the company's old mobile phone. Extensive coordination with company employees and with clients compelled respondent to bring the cellular phone out of the company premises. No one told respondent that she had to get permission from higher management to bring out the said cellular phone. Respondent's job as a Collection Manager required her to be persistent with those whom she dealt with to collect badly needed funds for the company.^[4]

In the course of her functions, respondent sent a memorandum chiding her Assistant Collection Manager for the latter's lack of dedication and her act of cheating on her timecard. Unfortunately, the Assistant Collection Manager made an issue out of this and complained to the Executive Assistant of petitioner company. The Executive Assistant favored the Assistant Collection Manager, who is his goddaughter, and ignored respondent's report.^[5]

On September 20, 2004, respondent received a show-cause Memorandum for: "(A) Act of Dishonesty—unauthorized bringing into or taking out any article from company premises. From April 2004 to present, you have been bringing home the Company's mobile phone during weekends without prior approval and consent from higher authority/ies and allegedly using the same for your personal use; (B) Tardiness. For incurring excessive and habitual tardiness of more than five (5) times in a month without just and valid reasons."^[6]

Respondent was stunned by such charges because, as early as March 2004, she had already expressed the urgent need of a cellular phone in the operation of her department. In April 2004, respondent even submitted to petitioner a formal request or requisition for a mobile phone for each collector, as well as a unit for herself, as Collection Manager. The request for a cellular phone for herself was specified to cover her personal calls, on the understanding that the Collection Department would be able to increase its output or collections. No objection was expressed by petitioner to such request. Respondent rendered uncompensated overtime on weekdays, and reported for work on Saturdays and even on holidays, believing that her dedication, discipline, and hard work would be valued by petitioner. Respondent was hurt when she, a manager of petitioner company, was charged for minutes of tardiness, when she had rendered much more to the company.^[7]

On September 21, 2004, respondent submitted her written explanation intensely denying the charges imputed to her. She requested for a formal confrontation with her accusers in order to address the issues against her. To her surprise, the Executive Assistant of petitioner company denied her request for a confrontation, while she was preventively suspended to make way for an administrative investigation.^[8]

On September 28, 2004, respondent received a termination letter for alleged loss of trust and confidence, which termination was immediately effective.^[9] The pertinent portion of the termination letter reads: “[T]he Management has found that you have patently violated our company rules and regulations with the unlawful use of company property, poor management style, misdemeanor and conduct unbecoming of an officer of the company.”^[10]

Thus, respondent filed a case for illegal dismissal, nonpayment of 13th month pay, payment of damages and attorney’s fees against petitioner before the Arbitration Branch of the National Labor Relations Commission (NLRC).^[11]

Version of the Employer

Respondent was hired as a probationary employee with the position of Collection Manager on February 16, 2004. She had a basic monthly salary of P16,000.00, with an allowance of P2,000.^[12]

Prior to her engagement, respondent was duly apprised of her duties and responsibilities, pertinent company standards, company policies, rules, and regulations. Among such policies made known to respondent was the prohibition on the bringing home company properties and using the same for personal purposes. One such property was the cellular phone issued to respondent.^[13]

According to petitioner:

As Collection Manager, respondent habitually exercised discretion and independent judgment in the supervision and control of company resources and properties assigned to her department, subject to existing company policies, rules, and regulations. She was charged with the care and safekeeping of these properties.^[14]

Respondent was tasked to exercise discretion and independent judgment in areas involving the formulation of effective programs and measures to enhance the

company's collection of its receivables and to ensure that these receivables were all safely kept, accounted and properly endorsed to the proper company official. The said cellular phone was issued to respondent for her to use within the company premises and strictly for official purposes only.^[15]

However, respondent, in deliberate disregard of and disobedience to company policy, repeatedly and habitually brought home the cellular phone issued to her by the company. She made several personal calls on said cellular phone during Saturdays and Sundays, which calls were paid for by the company to the latter's damage and prejudice. Moreover, respondent, with abuse of her rank and influence in several instances, borrowed money from her subordinates for personal purposes. Respondent engaged in rumormongering involving her subordinates, sowing intrigues and discord among her subordinates. Respondent also incurred more than five (5) tardiness each month for several months, which were contrary to the company policies, rules, and regulations. These prompted the company to formally ask respondent to explain her dishonesty, serious misconduct, and other violations in a Memorandum dated September 20, 2004.^[16]

On September 21, 2004, respondent submitted her written explanation. She failed to satisfactorily explain her unauthorized use of the company's cellular phone even outside the office premises, including the charging of her personal calls. Respondent admitted her habitual tardiness, alleging that "the hours lost due to my tardiness are over compensated."^[17]

On September 28, 2004, petitioner formally terminated respondent's employment.^[18]

On May 28, 2005, the Labor Arbiter (LA) rendered a decision^[19] in favor of respondent, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the dismissal of complainant to be illegal. Accordingly, respondents are ordered jointly and severally:

1. To reinstate complainant to her former position without loss of seniority rights and other privileges;
2. To pay complainant full backwages from time of dismissal which up to date amounts to P225,000.00 up to actual reinstatement;
3. To pay complainant moral damages in the amount of P20,000.00;
4. To pay complainant exemplary damages in the amount of P20,000.00; and
5. To pay complainant attorney's fees equivalent to ten percent (10%) of the total award.

All other claims are denied.

SO ORDERED.

On appeal, the NLRC affirmed in to the decision of the LA in a decision^[20] dated November 17, 2006. Petitioner filed a motion for reconsideration. However, the NLRC denied the same in a resolution^[21] dated June 18, 2007.