

## FIRST DIVISION

**[ G.R. No. 182299, February 22, 2010 ]**

**WILFREDO M. BARON, BARRY ANTHONY BARON, RAMIL CAYAGO, DOMINADOR GEMINO, ARISTEO PUZON, BERNARD MANGSAT, MARIFE BALLESCA, CYNTHIA JUNATAS, LOURDES RABAGO, JEFFERSON DELA ROSA AND JOMAR M. DELA ROSA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND MAGIC SALES, INC. REPRESENTED BY JOSE Y. SY, RESPONDENTS.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

The present petition for review on certiorari seeks to annul the Decision <sup>[1]</sup> dated August 31, 2007, as well as the Resolution <sup>[2]</sup> dated March 6, 2008, of the Court of Appeals in CA-G.R. SP No. 78925, which affirmed the Decision <sup>[3]</sup> of the National Labor Relations Commission (NLRC) in NLRC-NCR CA No. 028180-01.

Respondent Magic Sales, Inc. (MSI) is a domestic corporation engaged in the business of trading consumer goods such as soap, biscuits, candy, coffee, and juice drinks, among other things, <sup>[4]</sup> while respondent Jose Y. Sy is the company's President and General Manager. <sup>[5]</sup> On the other hand, petitioners claim to be employees of MSI. <sup>[6]</sup>

It appears that on January 18, 2000, Sy ordered an inventory of the company's stock after noticing a steady increase in the company's payables and a decline in its investments. Mr. Jovencio A. Daroya, a Certified Public Accountant and the Corporate Finance Manager of MSI, was tasked to conduct a thorough audit of the company's business. Sy then informed petitioner Wilfredo Baron that he had to be temporarily relieved of some of his duties as Operations Manager to allow the audit process to take its course for reconciliation of documents.

In a memorandum dated February 18, 2000, the employees were instructed (1) to give all the support needed by the audit team; (2) to surrender all keys and documents; (3) not to bring out anything belonging to management; and (4) to undergo a search before leaving the office. <sup>[7]</sup> Petitioners, however, refused to cooperate in the audit process, and thereafter, refrained from reporting for work. <sup>[8]</sup> Nonetheless, the audit was completed, and an Internal Audit Report <sup>[9]</sup> was submitted on April 29, 2000.

According to the audit team, there were several irregularities in the operations of MSI. The accounting system designed by Baron was generally weak and compliance to procedures was not strictly implemented. The team was also convinced that Baron abused his authority and took advantage of the laxity of the system he

designed. It likewise believed that Baron's subordinates were not honest enough to report the anomalies to the management; otherwise, the irregularities could have been limited. The audit team further concluded that there was collusion between Baron and his subordinates and that they benefited from the irregularities. [10]

Consequently, management informed petitioners of the charges against them, to wit: (1) serious misconduct and willful disobedience to the company's lawful orders; (2) fraud or willful breach of trust reposed by the employer; and (3) abandonment or absence without official leave. Although petitioners were required to explain and refute the charges, they neither rebutted the same nor attended the investigation. Hence, MSI decided to terminate their services. [11]

Petitioners forthwith filed complaints [12] with the NLRC Arbitration Branch against MSI and Sy for illegal dismissal, 13<sup>th</sup> month pay, service incentive leave pay, moral and exemplary damages and attorney's fees. [13] In their Joint Position Paper, [14] petitioners principally argued that they were dismissed whimsically and capriciously in a very oppressive manner, without valid cause and without due process of law. They prayed that respondents be declared guilty of illegal dismissal and that they be reinstated to their respective former positions without loss of seniority rights, with full back wages and payment of damages. They also prayed for payment of their monetary claims.

For its part, MSI countered in its Consolidated Position Paper [15] that the petitioners are not entitled to the reliefs prayed for because they were validly dismissed. MSI insisted that Baron orchestrated the massive irregularities and grand scale fraud. With the help of the other petitioners, they were able to misappropriate company funds and goods. When petitioners sensed that their offenses would be discovered during the audit, they suddenly abandoned their work. Furthermore, MSI insisted that petitioners are guilty of insubordination by refusing to cooperate with the company and subject themselves to audit to clear themselves. Worse, petitioners attempted to sabotage the audit by locking their drawers and refusing to surrender the keys, stealing files and destroying documents and other papers.

On January 22, 2001, Labor Arbiter Jose G. De Vera rendered judgment [16] ordering respondents to reinstate petitioners Aristeo Puzon, Dominador Gemino, Bernard Mangsat, Ramil Cayago, Barry Anthony Baron, Cynthia Junatas, Marife Ballesca and Lourdes Rabago to their former positions with all the rights, privileges, and benefits appurtenant thereto, plus full back wages from the date of dismissal until finally reinstated. Respondents were further ordered to pay money claims and attorney's fees to petitioners. However, the complaints of Wilfredo Baron, Jefferson dela Rosa and Jomar dela Rosa were dismissed for lack of merit.

Separate appeals to the NLRC were filed by both parties. [17] Petitioners argued that the decision is not in accord with law and jurisprudence and that they are appealing partially for the denial of their claim for damages. On the other hand, respondents claimed that the Labor Arbiter erred in holding that: (1) petitioners Gemino, Puzon, Barry Baron and Cayago were employees of MSI and that they were illegally dismissed; (2) petitioners Ballesca, Junatas and Rabago were dismissed without just and valid cause; and (3) respondent Sy is solidarily liable with MSI. Respondents also argued that the Labor Arbiter erred in granting petitioners' money claims.

On December 27, 2002, the NLRC rendered a Decision [18] as follows:

WHEREFORE, judgment is hereby rendered:

1. Treating the appeal of complainants Jomar de la Rosa and Jefferson dela Rosa as withdrawn;
2. Dismissing the appeal of Wilfredo Baron for being without merit; and
3. Dismissing the complaints of Aristeo Puzon, Dominador Gemino, Bernard [Mangsat], Ramil Cayago, Barry Anthony [Baron], Cynthia Junatas, Marife Ballesca and Lourdes Rabago for being also without merit.

SO ORDERED.

According to the NLRC, there was enough evidence to show that there was conspiracy among the employees of MSI. It found that massive irregularities were committed in the company and one (1) of those involved was the operations manager himself. The audit revealed that it was Wilfredo Baron who orchestrated the massive irregularities and grand scale fraud which, however, could no longer be documented because of the theft of company files and deletion of computer files which he and the other petitioners had access to. The NLRC found that petitioners anticipated that the audit would eventually lead to their dismissal and prosecution in court. Hence, they abandoned their work and filed cases at the start of the audit.

[19] The NLRC held that the acts of abandoning their jobs without prior leave and of not surrendering all the keys and documents in their possession so that management could thoroughly conduct its audit are enough reasons to justify their termination pursuant to Article 282 of the Labor Code, as amended.

Petitioners filed a Motion for Reconsideration. [20] The NLRC, however, was not persuaded, and resolved to deny the motion in its Order dated May 7, 2003. [21]

Contending that the NLRC acted with grave abuse of discretion amounting to lack or in excess of jurisdiction in rendering its Decision and Order, petitioners filed a Petition for Certiorari [22] with the Court of Appeals.

On August 31, 2007, the appellate court rendered a Decision, [23] the dispositive portion of which reads:

WHEREFORE, for lack of merit, the petition is DENIED due course and, accordingly, DISMISSED. Consequently, the assailed decision of the National Labor Relations Commission is AFFIRMED.

SO ORDERED.

Later, the Court of Appeals denied petitioners' motion for reconsideration [24] in its Resolution [25] dated March 6, 2008.

Hence, the present petition.

The core issues in this controversy are: (1) Were petitioners validly dismissed on the grounds of grave misconduct and loss of confidence? and (2) Were petitioners denied of their right to due process when they were terminated from their employment?

At the outset, it must be stressed that the issues raise questions of fact which are not proper subjects of a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended. It is axiomatic that in an appeal by certiorari, only questions of law may be reviewed. [26] Furthermore, factual findings of administrative agencies, when affirmed by the Court of Appeals, are conclusive on the parties and not reviewable by this Court. This is so because of the special knowledge and expertise gained by these quasi-judicial agencies from presiding over matters falling within their jurisdiction, which is confined to specific matters. So long as these factual findings are supported by substantial evidence, this Court will not disturb the same. [27]

In this case, the Labor Arbiter found that petitioners Aristeo Puzon, Dominador Gemino, Bernard Mangsat, Ramil Cayago, Barry Anthony Baron, Cynthia Junatas, Marife Balleca and Lourdes Rabago were illegally dismissed. The NLRC disagreed with the Labor Arbiter and reversed the latter's findings. On appeal, the appellate court concurred with the findings of the NLRC. In view of the discordance between the findings of the Labor Arbiter, on one hand, and the NLRC and the Court of Appeals, on the other, there is a need for the Court to review the factual findings and the conclusions based on the said findings. As this Court held in *Diamond Motors Corporation v. Court of Appeals*: [28]

A disharmony between the factual findings of the Labor Arbiter and the National Labor Relations Commission opens the door to a review thereof by this Court. Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness. Moreover, when the findings of the National Labor Relations Commission contradict those of the labor arbiter, this Court, in the exercise of its equity jurisdiction, may look into the records of the case and reexamine the questioned findings.

The Constitution, statutes and jurisprudence uniformly mandate that no worker shall be dismissed except for a just or valid cause provided by law, and only after due process is properly observed. In a recent decision, [29] this Court said that dismissals have two facets: first, the legality of the act of dismissal, which constitutes substantive due process; and, second, the legality of the manner of dismissal, which constitutes procedural due process.

The just causes for termination of employment are enumerated in Article 282 of the