

FIRST DIVISION

[G.R. No. 183383, April 05, 2010]

**ANABEL BENJAMIN AND RENATO CONSOLACION, PETITIONERS,
VS. AMELLAR CORPORATION, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Amellar Corporation (respondent) provides information technology services to local government units (LGUs) including computerizing their system and operations.

In October 1999, respondent hired petitioner Anabel Benjamin (Anabel) who, since March 26, 2001, was the Project Data Controller of its Content Build Up (CBU) Department.

The CBU Department of respondent collates and cleanses all the paper data gathered from the LGU-client which are then encoded and fed into the designed operating system.

As the most senior member of the department, Anabel was its officer-in-charge. From 2002 to 2003, she administered the CBU functions of respondent's projects in Imus, Cavite and Mabini, Batangas.^[1] Petitioner Renato Consolacion (Consolacion), a supervising data controller in respondent's Imus project, directly reported to Anabel.^[2]

By letter of March 20, 2003, the municipal assessor of Mabini, Batangas informed the manager of respondent that its real property tax administration database was not "100% complete," contrary to the report of respondent's supervising data controller Evangeline Repiano (Evangeline).^[3]

Melvin Tandoc (Tandoc), respondent's Technology Manager, thus sent Anabel a memorandum of March 27, 2003 reading:

X X X X

This is the first written complaint of such nature that we have received from our client. However, other complaints of the same nature have been conveyed to our TTS and/or Marketing Departments **orally** by **Nasugbu, Batangas; Mariveles, Bataan; and Lucena City** personnel.

X X X X.

After several months of working in **Imus, Cavite, [a] confidential**

assistant informed me that the assigned SDC, Renato Consolacion, allegedly gave specific oral instructions to some of our Data Controllers and subsequently our Data Encoders on field *not* to encode several decks of index cards of payments to `beat' the deadline and pass on the job to our Training and Technical Support (TTS) Department.

X X X X

You are hereby ordered to explain these (Mabini, Batangas and Imus, Cavite) incidents in writing and submit such explanation before 12:00 PM on March 31, 2003, Monday. This is to ensure that your side is adequately and fairly heard.^[4] (emphasis and underscoring supplied)

Anabel thereupon required Consolacion and Evangeline to explain in writing the alleged incidents subject of Tandoc's memorandum.^[5] Complying, Consolacion gave the following explanation:

X X X X.

If we are still going to accommodate the latest payments and posted [*sic*] from time to time posting of collection will never end. **I have instructed the Land Tax Division, Treasurer[']s Office to separate those recently posted with new payments to update later in order to have a systematic flow of mass updating of payments.**

Furthermore, **I have no instruction to our DC's stating that we have to leave several decks of indexes just to "beat" the deadline[.]** I'm looking forward that our DC's will stand fairly and honest beyond their conscience attesting my good intentions to keep the work within pace and credible.^[6] (emphasis and underscoring supplied)

Tandoc, to whom Consolacion's explanation was transmitted, sent another memorandum to Anabel indicating that he was not satisfied therewith and accordingly advising her that a formal investigation would be conducted.^[7] Anabel thereupon sent Consolacion a memorandum notifying him that a formal investigation would be conducted on the "4th week of April" without any mention therein of the actual date of the formal hearing.^[8]

It was only on April 23, 2003 that Tandoc directed Anabel to inform Consolacion and Evangeline that the formal hearing on the issues raised in his March 27, 2003 memorandum would proceed at 1:45 P.M. of said date.^[9]

Respondent, alleging that Anabel did not inform Consolacion of the hearing, preventively suspended her for three days starting April 25, 2003 for "*obstructing the conduct of due process.*" ^[10] She was also subsequently suspended for three working days starting April 30, 2003 *for not obeying a direct order.*

Anabel thereupon filed a complaint for illegal *suspension* before the National Labor Relations Commission (NLRC) against respondent and/or Tandoc.^[11]

In the meantime, respondent conducted hearings on Consolacion's case on April 23 and 28, 2003 during which Consolacion purportedly admitted the following:

1. Failure to provide written instructions for the separation of currently transacted records to officials of the Municipality of Imus;
2. Failure to advise or belatedly advising the supervising data controllers of the separation of the records; and
3. Failure to send some of the template letters and/or failure to follow the time frame for sending thereof.^[12]

As for Evangeline, respondent cleared her of any wrongdoing, it concluding that the written complaint from the municipal assessor of Mabini was "more likely due to miscommunication." Respondent even commended Evangeline for her "care and diligence expected from a responsible supervisor."^[13]

Tandoc later sent Anabel a memorandum of May 6, 2003

"appris[ing her of] the following acts or omissions for which [her] dismissal was [sought]"

Willful Breach of Trust Reposed in You

1. Reporting completion when there is no basis for such report;
2. Self-serving denials on the existence of verbally conveyed work or instructions and unwritten procedures;
3. Self-serving alibis on why certain work that can be delegated or sufficiently complied with on time in your capacity as supervisor and as senior officer in your department have not been accomplished or accomplished late only upon the prodding of a written memorandum; and
4. Attempting to obstruct the conduct of due process for your subordinates under investigation/hearing.

Gross and Habitual Neglect of Duties

1. Failure to institute existing standards and procedures both written and unwritten; and
2. Failure to monitor and correct the errors of your subordinates.

Willful Disobedience of Lawful Orders in Connection

with Work

1. Failure to comply with the lawful orders of your superior

You are hereby directed to submit within 72 hours your written answer on why you should not be dismissed on the said grounds. You are hereby given the opportunity to draft your written answer even outside of the office and still be paid your regular wages within said period.

x x x x.

Attached is the annex on the acts and omissions referred to by this notice.^[14] (emphasis in the original; underscoring supplied)

On receipt of the memorandum, Anabel requested for a bill of particulars and for additional time to respond to the charges.^[15] Tandoc replied that the "annex"^[16] to the memorandum was particular enough. Nevertheless, he gave Anabel until May 14, 2003 to respond to the charges.

On May 14, 2003, Anabel reiterated her request for a bill of particulars.^[17] On even date, Tandoc issued Consolacion a five-page memorandum informing him of his dismissal "for willful breach of trust reposed in him and all related and applicable charges acceptable to the Philippine Labor Code that pertain to the facts of this case."^[18]

The following day or on May 15, 2003, Tandoc issued Anabel a Notice on Decision to Dismiss.^[19]

Anabel *amended* her Complaint, adding as causes of action illegal dismissal, damages, and attorney's fees.^[20] Consolacion also filed a complaint for .^[21] Both cases were consolidated.

By Decision^[22] dated October 21, 2003, Labor Arbiter Felipe P. Pati, finding that petitioners were illegally dismissed, disposed:

WHEREFORE premises all considered, judgment is hereby rendered ordering respondents jointly and severally liable to:

1. reinstate complainants to their former positions without loss of seniority rights;
2. pay complainants full backwages in the amount of:
 - a) Anabel Benjamin - P72,500.00
 - b) Renato Consolacion - P45,000.00

subject to adjustment upon actual reinstatement.

All other claims are dismissed for lack of merit.

SO ORDERED.^[23]

On appeal, the NLRC affirmed the Labor Arbiter's decision,^[24] prompting respondent to file a petition for certiorari^[25] before the Court of Appeals.

By Decision^[26] of August 17, 2007, the Court of Appeals *reversed* the NLRC Decision and dismissed petitioners' complaints, hence, the present petition, assailing the appellate court's decision,

I.

x x x THERE [BEING] NO PROOF OF GROSS AND HABITUAL NEGLIGENCE OF DUTIES OR LOSS OF TRUST AND CONFIDENCE.

II.

x x x SINCE [RESPONDENT'S] PETITION IS PATENTLY WITHOUT MERIT.

III.

x x x FOR THE COMMON AND UNANIMOUS FINDINGS OF THE LABOR ARBITER AND THE NLRC ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

IV.

x x x [FOR] MANAGEMENT PREROGATIVE IS NOT ABSOLUTE.^[27]
(underscoring supplied)

Petitioners contend that respondent failed to substantiate the grounds for their dismissal from employment, maintaining that respondent merely relied on speculations and unsubstantiated conclusions.^[28]

Respondent, in its Comment, preliminarily moves to have Consolacion dropped as petitioner for failure to sign the verification and certification of non-forum shopping.

On the merits, respondent underscores that Anabel falsely reported the completion of work in the Imus project; that she failed to follow ordinary procedures and instructions, to monitor and correct operational errors, and to comply with the lawful orders of her superiors.^[29]

As for Consolacion, respondent asserts that he too misrepresented that the Imus project had been completed; that he failed to follow procedures and instructions, to provide written instructions for the separation of currently transacted records to the officials of Imus, to advise or belatedly advise the data controllers of the separation of the records, and to send the template letter or follow the time frame for sending such letter.^[30]