

## THIRD DIVISION

**[ G.R. Nos. 169965-66, December 15, 2010 ]**

**CARLOS V. VALENZUELA, PETITIONER, VS. CALTEX  
PHILIPPINES, INC., RESPONDENT.**

### DECISION

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

This petition for review on certiorari assails the Decision<sup>[1]</sup> dated July 20, 2005 of the Court of Appeals (CA) in CA-G.R. SP Nos. 80494 and 80638. The appellate court had reversed and set aside the Decision<sup>[2]</sup> of the National Labor Relations Commission (NLRC) and reinstated the Decision<sup>[3]</sup> of the Labor Arbiter which dismissed petitioner's complaint for illegal dismissal for lack of merit.

The facts follow.

Petitioner was hired by respondent Caltex Philippines, Inc. sometime in March 1965 as Laborer and assigned in the Lube Oil Section of its Pandacan Terminal in Manila. After three years, he was designated as Machine Operator A.<sup>[4]</sup>

Sometime in 1970, petitioner requested that he be transferred to respondent's main office. Since the position available then was that of a messenger, he accepted the same. One year later, petitioner was given a new assignment as Aviation Attendant of respondent's Manila Aviation Service.<sup>[5]</sup>

After twenty-two (22) years at the Manila Aviation Service, petitioner was moved to respondent's Lapu-Lapu Terminal in Lapu-Lapu City. The transfer was part of the penalty for the charge of not servicing an aircraft's fuel needs, which petitioner denied. Reluctantly, petitioner acceded to the transfer.<sup>[6]</sup>

Petitioner was initially designated as Gauger but he also handled Bulk Receiving, Tank Truck Loading and Bunkering. In 1996, the Warehouseman retired and the functions of the warehouseman were given to petitioner.<sup>[7]</sup> As warehouseman, petitioner's duties included, among others, the maintenance of stock cards for storehouse materials and supplies, the conduct of physical inventory of the company's merchandise stocks and monitoring the movement of said stocks.<sup>[8]</sup>

On November 23, 1999, a spot operational audit was conducted on the Lapu-Lapu City District Office, and several irregularities in the handling of respondent's merchandise were discovered. A net inventory shortage amounting to P823,100.49 was discovered.<sup>[9]</sup>

Petitioner was required to explain within forty-eight (48) hours such shortage and the other irregularities discovered during the spot audit. He was further

informed<sup>[10]</sup> that an administrative investigation will be conducted on the matter and because of the nature of his offense and his position in the Company, he was preventively suspended to prevent further losses and/or possible tampering of the documents and other evidence.<sup>[11]</sup>

The administrative investigation was conducted with two hearings held on December 15, 1999 and January 18, 2000. On both dates, petitioner was present, together with his counsel and/or union officer. Thereafter, based on the findings from the administrative investigation, respondent found cause to terminate petitioner's employment.<sup>[12]</sup> Specifically, respondent found petitioner liable for (1) Gross and Habitual neglect of duties and responsibilities as warehouse clerk, (2) Not performing month-end inventory duties, (3) Not investigating the shortages of stocks under his custody and (4) Commission of Fraud.<sup>[13]</sup>

Aggrieved by the respondent's decision to terminate his employment, petitioner filed a complaint<sup>[14]</sup> for illegal dismissal with the NLRC Regional Arbitration Branch No. VII in Cebu City. He also claimed salary differentials representing his pay increases pursuant to the existing Collective Bargaining Agreement<sup>[15]</sup> (CBA) between the parties, which were not given to him by respondent.<sup>[16]</sup>

On May 19, 2000, Labor Arbiter Ernesto F. Carreon rendered a Decision<sup>[17]</sup> declaring the claim for illegal dismissal unmeritorious. The Labor Arbiter held,

WHEREFORE, premises considered, judgment is hereby rendered dismissing the claim for illegal dismissal for lack of merit and the other monetary claims are referred to the grievance machinery and/or voluntary arbitrator as provided under the CBA.

So Ordered.<sup>[18]</sup>

On appeal to the NLRC, the NLRC set aside the decision of the Labor Arbiter and declared that petitioner was illegally dismissed. The dispositive portion of the NLRC decision states:

WHEREFORE, the Labor Arbiter's Decision dated May 19, 2000 is hereby SET ASIDE and a new one is rendered declaring CALTEX PHILIPPINES, INC. and LEODEGARIO W. JACINTO to have illegally dismissed the complainant, CARLOS V. VALENZUELA. Instead of reinstatement, the same respondents are ORDERED to pay, jointly and severally, the same complainant a separation pay computed at one (1) month salary for every year of service, a fraction of at least six (6) months being considered one (1) year, multiplied by the number of years from his date of employment until full separation pay shall have been paid, which is tentatively computed below as of the date of this Decision:

Salary per month	P 25,800.00
Number of years in service	<u>          x 38          </u>
Separation Pay	P 980,400.00

Other benefits covered by the CBA may be claimed by the complainant in the Grievance Machinery in accordance with the CBA.

All other claims are dismissed for lack of merit.

SO ORDERED.<sup>[19]</sup>

Both parties went to the CA by way of petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended. On July 20, 2005, the CA, 20<sup>th</sup> Division, Cebu City issued the challenged Decision<sup>[20]</sup> reinstating the Labor Arbiter's decision, as follows:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition in CA-G.R. SP NO. 80638 and DENYING the petition in CA-G.R. SP NO. 80494. The assailed decision of the NLRC, Fourth Division dated September 10, 2002 is hereby REVERSED and SET ASIDE and the Decision dated May 19, 2000 rendered by Labor Arbiter Ernesto F. Carreon in RAB Case No. 7-01-0135-2000 is hereby REINSTATED.

SO ORDERED.<sup>[21]</sup>

On September 20, 2005, the CA denied the motion for reconsideration. Hence, this petition.

Petitioner argues that there were several procedural lapses in the Petition for Certiorari<sup>[22]</sup> respondent filed with the CA. In particular, petitioner points out that the petitioners therein were respondent and Leodegario Jacinto, but only the latter submitted a verification and certification against forum shopping. There was no board resolution from respondent authorizing Leodegario Jacinto to sign the verification and certification against forum shopping in its behalf, thereby making the petition ineffectual.

Further, petitioner mentions the failure of herein respondent to accompany said petition with copies of all pleadings and documents relevant and pertinent to the petition as required by Section 1 of Rule 65. This allegation is based on the Resolution<sup>[23]</sup> dated February 26, 2004 of the CA directing respondent and Jacinto to submit a copy of the May 19, 2000 Decision of the Labor Arbiter, the Motions for Reconsideration dated November 7, 2002 and November 11, 2002 filed by the parties and other pleadings and documents filed before the Labor Arbiter. According to the petitioner, the CA would not have ordered respondent to submit those documents if they were not relevant and pertinent to the case. Hence, failure to submit them together with the Petition for Certiorari was a violation of the Rules which warranted dismissal of the petition.

On the merits, petitioner argues that there was no basis in law to support petitioner's dismissal, contrary to the finding of the CA. Petitioner relies on the fact

that he had previously brought to respondent's attention that he was overworked and that his duties were too cumbersome for one person.

Respondent for its part counters by first denying petitioner's claim that there was no certification and verification against forum shopping. Respondent points out that there were two certifications and verifications against forum shopping: one from Alejandro Rey C. Pardo, Jr. in behalf of respondent and one from Leodegario Jacinto in behalf of himself. Records would also show that there was a board resolution authorizing Alejandro Rey C. Pardo, Jr. to sign a certification and verification against forum shopping in behalf of respondent.

As to the resolution of the CA requiring the submission of additional documents, respondent argues that the issuance of the resolution did not mean that the appellate court committed grave abuse of discretion in eventually giving due course to the petition for certiorari. The Resolution simply meant that the appellate court, in the exercise of its sound discretion, wanted to review the documents. Such order to submit particular documents did not mean that the petition filed was procedurally defective.

On the merits, respondent argues that the termination of petitioner's employment was sufficiently supported by evidence and the law. The CA categorically stated that petitioner was guilty of habitual and gross neglect of his duties and performed various acts that directly caused the loss of trust and confidence reposed by the company in him.

Respondent also argues that the present petition raises questions of fact which are beyond the ambit of a petition for review on certiorari under Rule 45. Respondent points out that unless for compelling reasons, which are absent in this case, a review of the factual milieu of a case is not in order under Rule 45.

Essentially, the two issues for our resolution are: (1) Whether the CA erred in giving due course to the petition for certiorari filed by herein respondent despite the alleged procedural defects; and (2) Whether the CA correctly ruled that petitioner was validly dismissed.

We deny the petition.

On the first issue, the claim of the petitioner that there was only one certification and verification against forum shopping filed by the respondents therein is utterly incorrect. Records show that there were two certifications and verifications against forum shopping submitted together with the questioned petition for certiorari: one signed by Alejandro Rey C. Pardo, Jr.<sup>[24]</sup> in behalf of therein petitioner Caltex Philippines, Inc., and another one signed by Leodegario W. Jacinto in behalf of himself as petitioner, also in the same petition for certiorari. Records show that a Secretary's Certificate<sup>[25]</sup> dated October 9, 2003 was issued by then Corporate Secretary Ariel F. Abonal certifying that a Board Resolution was duly passed on January 28, 2002 approving a Revised Approvals Manual, on the basis of which, Alejandro Rey C. Pardo, Jr. was authorized to sign, verify and cause the filing of the petition for certiorari before the CA in the case entitled "*Caltex (Philippines), Inc. v. Carlos Valenzuela, et al.*," and to sign, verify and cause the filing of other necessary pleadings. Thus, it is clear that the respondent submitted a proper verification and