

THIRD DIVISION

[G.R. No. 181393, July 28, 2009]

**GRANDTEQ INDUSTRIAL STEEL PRODUCTS, INC. AND ABELARDO
M. GONZALES, PETITIONERS, VS. EDNA MARGALLO,
RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated 21 January 2008 of the Court of Appeals in CA-G.R. SP No. 100012, which affirmed the Decision^[2] dated 18 October 2006, as modified by the Resolution^[3] dated 21 May 2007, of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 045888-05. The NLRC effectively reversed the Decision^[4] dated 11 July 2005 of the Labor Arbiter in NLRC NCR Case No. 00-09-10803-04, which entirely dismissed the Complaint filed by respondent Edna Margallo (Margallo) against petitioners Grandteq Industrial Steel Products, Inc. (Grandteq) and Abelardo M. Gonzales (Gonzales); and, instead, ordered Grandteq and Gonzales to refund to Margallo her car loan payments, as well as to pay the latter sales commission and attorney's fees.

Grandteq is a domestic corporation engaged in the business of selling welding electrodes, alloy steels, aluminum and copper alloys.^[5] Gonzales is the President/Owner of Grandteq.^[6] Grandteq employed Margallo as Sales Engineer beginning 3 August 1999.^[7]

Margallo claimed that on an unstated date, she availed herself of the car loan program offered to her by Grandteq as a reward for being "Salesman of the Year." She paid the down payment on a brand new Toyota Corolla,^[8] amounting to P201,000.00, out of her own pocket. The monthly amortization for the car was P10,302.00, of which P5,302.00 was to be her share and P5,000.00 was to be the share of Grandteq.

On 29 December 2003, Margallo received a letter^[9] signed by Gonzales and Rolando de Leon (De Leon), Vice-President for Administration of Grandteq, which reads:

Mrs. Edna E. Margallo
c/o Grandteq Industrial
Steel Products, Inc.
#2 Cooper St., cor. Benitez
SFDM, Quezon City

Dear Mrs. Margallo:

This is to inform you that our records show the following:

1) That, last December 18, 2003, you instructed our company driver and helper to load 4 pcs. tool steel to be delivered at circle freight.

2) That together with Mr. Steve Rivera, on or about 12:00 noon, you went at (sic) Eagle Global Logistics at Circle Freight, NAIA, Parañaque City to ship the following items to Moog Control Corp. Phils. Branch located at Baguio Ecozone, Baguio City, using the Sales Invoice of JVM Industrial Supply and Allied Services.

a) 2 pcs. tool steel 4140 - $\frac{3}{4}$ " x 2' x 3'

b) 2 pcs. tool steel 4140 - 1" x 2' x 3'

3) That you are working with JVM Industrial Supply and Allied Services concurrent with your being employed with Grandteq Industrial Steel Products, Inc.

4) That JVM Industrial Supply and Allied Services are supplying steel products to Moog Control Corp. Phils. Branch which is also a client of Grandteq and which you are the authorized salesman of the company.

Because of this, you are given a (sic) twenty-four (24) hours upon receipt of this letter to submit a written explanation on why you should not be given a disciplinary action for allegedly violating/committing:

a) Moonlighting

b) Sabotage

c) Breach of trust and confidence (labor code).

You are also invited to attend a meeting with regards to the allegations on Jan. 5, 2004 at 10:00 a.m. You may bring with you a lawyer or any representative to assist you on (sic) the said meeting.

Failure on your part to submit a written explanation on the specified period and failure to attend the hearing would mean that you are waiving your rights to be heard and the appropriate action will be taken against you.

Moreover, to protect the evidences and witnesses against you, management has decided to place you under preventive suspension effective December 29, 2003.

Very truly yours,

(Signed)
Abelardo M. Gonzales
President

(Signed)
Ronaldo A. de Leon
VP - Administration

Responding to the foregoing letter, Margallo wrote the following letter-reply dated 30 December 2003:

December 30, 2003

To: Mr. Abelardo M. Gonzales
President

Thru: Mr. Ronald A. de Leon
VP - Administration

Dear Sir,

Last December 18, 2003, Mr. Steve D. Rivera instructed me to tell to our delivery people to bring the said item to circle freight. Which I did that (sic) I thought it was ok because it was inside the company. Sir I was just following orders from Mr. D. Rivera who is one of my boss (sic). Sir, what I did is the same thing that I've been doing with my other bosses. That i[f] they instructed me to do things I immediately follow. Because I am only an employee. Sir never that I work with JVM (sic).

Sir im (sic) sorry if I did wrong by not asking what to do. Which I think an ordinary employee like me would do is to follow orders from my superiors.

IM SO SORRY SIR IF I FAIL YOU.

(Signed)

Edna E. Margallo^[10]

Margallo then averred that in January 2004, De Leon asked her to just resign, promising that if she did, she would still be paid her commissions and other benefits, as well as be reimbursed her car loan payments. Relying on De Leon's promise, Margallo tendered on 13 January 2004, her irrevocable resignation, effective immediately.^[11]

Margallo, however, alleged that she was never paid her money claims. Grandteq failed to pay her commissions in the sum of P87,508.00, equivalent to 5% of the total sales that she collected as of January 2004, which amounted to P1,750,148.84. Grandteq likewise failed to refund the "sales accommodations" or advances she gave her customers. In addition, after Margallo's resignation, Grandteq sold her car to Annaliza Estrella, another employee, for P550,000.00.^[12] These events prompted her to file before the Labor Arbiter a Complaint^[13] against Grandteq and Gonzales, for recovery of sales commission, cash incentive and car loan payment, damages and attorney fees, which was docketed as NLRC Case No. 0009-108-03-04.

Grandteq and Gonzales opposed Margallo's claims. They maintained that Margallo was not entitled to sales commissions because the computation thereof, according

to company policy, should be based on actual collections within 180 days from invoice date. All of Margallo's credit sales transactions were unpaid, outstanding, and past due. Margallo was also not entitled to any sales incentive, because said benefit was intended for customers, and not for the sales personnel.^[14] Grandteq and Gonzales further insisted that Margallo had no right to the refund of her car loan payments under the car loan agreement she executed with Grandteq, which expressly provided that in the event that Margallo resigned or was terminated for cause during the effectivity of said agreement, her car loan payments would be forfeited in favor of Grandteq, and Grandteq would regain possession of the car.

The Labor Arbiter rendered a Decision on 11 July 2005, dismissing all of Margallo's claims, thus:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant case for lack of merit.^[15]

The Labor Arbiter held that Margallo was not able to prove by substantial evidence her entitlement to the sales commission:

After a careful review of the records, this Office finds that considering [Margallo] already receives a basic salary plus allowances, her claim for sales commission is therefore an added benefit wholly dependent upon her sales performance based on existing company policy. As such, it is an affirmative allegation or claim that is not normally included in the regular course of business and for which law presumes that an employee is generally not entitled to. Thus, it behooves, upon the employee to prove that he is entitled to said affirmative allegations and the onus is upon him to establish his right thereto (see *Eternit Employees and Workers Unions vs. De Veyra*, 189 SCRA 752 and *Nucum vs. Inciong*, 204 SCRA 697).

In the instant case, this Office finds [Margallo] to have failed to substantially discharge her burden of proving that she is entitled to the P87,508.00 in sales commissions since other than her bare allegations, [Margallo] did not show any other proof, including prior payment of said sales commissions, to justify her claim.

And, quite noteworthy too is that under the [Grandteq]'s policy, rules and regulations on the grant of sales commissions, the computation thereof shall be based on actual collection against all sales on credit and the validity of the said commission shall be 180 days from invoice dates; otherwise, the salesman shall not be entitled thereto and forfeits any right to demand payment of the commission thereon as the sales are considered bad debts as uncollectible. Since the records of [Grandteq] showed that [Margallo]'s credit sales remain unpaid and outstanding for over 180 days, [Margallo] is therefore not entitled to sales commissions.

No denial whatsoever of the above-discussed company policy was made by [Margallo] in her Reply.

Thus, having failed to establish entitlement to said sales commission, the same is hereby denied.^[16]

For a similar reason, the Labor Arbiter denied Margallo's claim for payment of cash incentive:

As regards to cash incentives, once again this Office finds that the same is also an affirmative allegation and the burden of proving entitlement thereto rests upon the employee. And having failed to even mention how much of the alleged cash incentive she is entitled to in Annexes "A" and "2-a" of her position paper, the same is hereby denied.^[17]

Finally, the Labor Arbiter found that Margallo had no right to the reimbursement of her car loan payments under her car loan agreement with Grandteq:

And as regards of (sic) the car loan, the same should be governed by the undisputed terms and conditions of the Agreement between complainant and respondent company (Annex "A" of respondents' position paper). And page 2 of said Agreement clearly stipulates that in case of resignation, all payments made by the personnel shall be forfeited in favor of the company. Thus, the claim for refund of the car loan should likewise be denied.^[18]

Margallo filed an appeal with the NLRC, docketed as NLRC NCR CA No. 045888-05. Although the NLRC, in its Decision dated 18 October 2006, stated that it merely "modified" the Decision dated 11 July 2005 of the Labor Arbiter, it effectively reversed the same by granting Margallo her claims for sales commission, reimbursement of her car loan payments, and attorney's fees. The *fallo* of the NLRC Decision is quoted below:

WHEREFORE, the decision appealed from is hereby MODIFIED. [Herein petitioners] Grandteq Industrial Products, Inc. and/or its President/General Manager, [petitioner] Abelardo M. Gonzales, are hereby ordered to refund to the [herein respondent Margallo] her car loan payments amounting to P217,815.94 and to pay her the amount of P10,870.79 representing her unpaid sales commissions plus ten percent (10%) of the total monetary award as attorney's fees.^[19]

In ordering that Grandteq and Gonzales reimburse the car loan payments made by Margallo, the NLRC reasoned:

It is unlikely for an employee who has invested his time and industry in a particular job to simply give it up after being accused of violating company rules and regulations. It is more likely that he did so upon the