

## SECOND DIVISION

[ G.R. No. 164081, April 16, 2008 ]

**MITSUBISHI MOTORS PHILS. CORPORATION, PETITIONER, VS.  
ROLANDO SIMON AND CONSTANTINO AJERO, RESPONDENTS.**

### DECISION

**TINGA, J.:**

In the instant petition, Mitsubishi Motor Philippines (petitioner) questions the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> dated 20 February 2004 and 14 June 2004, respectively, in CA GR SP NO 70704 entitled *Rolando Simon and Constatino Ajero v. Mitsubishi Motor Phils. Corp. and National Labor Relations Commission* wherein the Court of Appeals annulled and set aside the resolution and decision of the NLRC and instead ordered the reinstatement of respondents, or if reinstatement is not possible, the payment of separation pay to respondents.

The facts of the case follow.

Rolando Simon and Constantino Ajero (respondents) were employees of petitioner and members of the Hourly Union. Simon was designated as Union Chairman of the Rice Subsidy Sub-Committee<sup>[3]</sup> with Ajero as his Vice Chairman. On 29 May 1997, Rodolfo Siena (Siena), one of the accredited rice suppliers of petitioner complained to petitioner that respondents had extorted money from him in exchange for union protection for his rice store's continued accreditation in the rice subsidy program. In support of said allegation, Siena executed a Sinumpaang Salaysay,<sup>[4]</sup> wherein he detailed that he was approached by respondents who introduced themselves as newly elected union officers, and demanded that he pay them P50.00 per sack of rice given to petitioner's employees. Siena claimed that he was forced to give respondents P3,0000.00 after they threatened him that they would no longer get him as a rice supplier. He was also warned not to tell anyone about the incident.

Petitioner, through its Industrial Relations Department, issued a Notice of Disciplinary Charge with Preventive Suspension against respondents. Administrative hearings were conducted, after which respondents were found guilty of "serious misconduct" and "breach of trust" amounting to loss of confidence, under Article 282(a) and (c) of the Labor Code in relation to Par. E.(1) of the Company Rules and Regulation (CRR) for "Commission of an Act which is considered a crime under the Republic of the Philippines" namely, "Swindling or Estafa" (extortion) under Article 315(2)(a) and/or Article 318 (other deceits) of the Revised Penal Code."<sup>[5]</sup>

Respondents filed a case for illegal dismissal but their complaint was dismissed by the labor arbiter for lack of merit.<sup>[6]</sup> The dispositive portion of the decision reads:

WHEREFORE, the complaint for illegal dismissal is hereby DISMISSED for lack of merit. However, by way of compassionate justice, respondent is

directed to extend financial assistance of P88,389.48 (P94.43 x 8 hrs. x 26 days x 9/2 to Rolando Simon and P69,580.16 (P86.43 x 8 hrs. x 26 days x 8/2 to Constantino Ajero.

SO ORDERED.<sup>[7]</sup>

Respondents appealed the decision to the National Labor Relations Commission (NLRC). Petitioner also filed an appeal insofar as the award of financial assistance to respondents is concerned. The NLRC affirmed the labor arbiter's decision, but it deleted the award of financial assistance, considering that respondents were dismissed for cause on the ground of serious misconduct.<sup>[8]</sup> Respondents moved for the reconsideration of the decision but their motion was denied by the NLRC.<sup>[9]</sup>

Feeling aggrieved, respondents filed a petition for certiorari with the Court of Appeals, imputing grave abuse of discretion on the part of the NLRC. The Court of Appeals granted the petition, finding in the main that the labor tribunals did not properly appreciate the evidence presented before them. The Court of Appeals thus ordered:

WHEREFORE, based on the foregoing, the instant petition is hereby GRANTED. The assailed Resolution and Decision of the NLRC are hereby ANNULLED and SET ASIDE and a new judgment is hereby rendered ordering the private respondent to:

(1) Reinstate petitioners to their former position without loss of seniority rights, and to pay full backwages computed from the time of their illegal dismissal to the time of actual reinstatement; and

(2) Alternatively, if reinstatement is not possible, pay petitioners separation pay equivalent to one month's salary for every year of service.

<sup>[10]</sup>

Petitioner moved for the reconsideration of the decision but to no avail.<sup>[11]</sup>

Before us, petitioner claims that the Court of Appeals erred in reversing the factual finding of the NLRC and the labor arbiter and in relying on the defense of alibi and the self-serving statements of respondents.

We find for the petitioner.

Under Rule 45 of the Rules of Court, only questions of law may be raised under a petition for review on certiorari. The Court, not being a trier of facts, is not wont to reexamine and reevaluate the evidence of the parties, whether testimonial or documentary. Moreover, the findings of facts of the Court of Appeals on appeal from the NLRC are, more often than not, given conclusive effect by the Court. The Court may delve into and resolve factual issues only in exceptional circumstances, as when the Court of Appeals has reached an erroneous conclusion based on arbitrary findings of fact; and when substantial justice so requires.<sup>[12]</sup> In the present case, the Court of Appeals overlooked the applicable laws and jurisprudence when it reached its conclusion.

The settled rule in administrative and quasi-judicial proceedings is that proof beyond

reasonable doubt is not required in determining the legality of an employer's dismissal of an employee, and not even a preponderance of evidence is necessary as substantial evidence is considered sufficient.<sup>[13]</sup> Substantial evidence is more than a mere scintilla of evidence or relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise.<sup>[14]</sup>

Petitioner alleges that respondents extorted money from Siena, one of the rice dealers contracted by the company to provide for its rice subsidy program. According to petitioner, said act is "a clear case of serious misconduct, fraud and willful breach of trust, and disloyalty to the Company as their employer" as it "sabotages the Company's Rice Subsidy Program and disrupts the efficient administration of services and benefits to employees." Thus, they claim that respondents betrayed not only the Company, but also the union members whom they had sworn to serve, reneging on their loyalty to the company, its visions and goals.<sup>[15]</sup> Petitioner based its conclusions on the sworn statements of Siena and his wife, as well as on the explanations and evidence presented by respondents. The labor arbiter and the NLRC, after finding the evidence presented by petitioner to be credible *vis a vis* respondents' general denial, ruled that respondents were not illegally dismissed.

On the other hand, the Court of Appeals, in reversing the findings of the labor tribunals, observed that the former did not take into account the affidavits of respondents' co-employees attesting to their presence in the company premises at the time of the alleged extortion and found the need for a graphology expert to verify Ajero's signature in the receipt. It also noted that Siena's affidavit is replete with inconsistencies which cast doubts on the credibility of the accusation and should have been clarified by the labor tribunals. Finally, the appellate court mentioned that petitioner did not even present a police blotter or a copy of the criminal charges against respondents, "when the same are crucial, petitioners' [respondents] dismissal being grounded on their alleged commission of the crime that amounts to a violation of the company rules. On the other hand, petitioners were able to present certifications from various agencies attesting to the fact that they were never charged with the crime being imputed to them."<sup>[16]</sup>

In so doing, the Court of Appeals raised the degree of proof in administrative cases. Rather than mere substantial evidence, the appellate court seems to be looking for proof beyond reasonable doubt, or at the very least, a preponderance of evidence.

The Court of Appeals point to affidavits supposedly executed by respondent's co-employees, who claim that respondents were in their work stations when the extortion occurred. We checked the records of the case and discovered that the documents referred to are not affidavits, but mere handwritten letters. One of the letters<sup>[17]</sup> signed by fourteen (14) employees reads:

July 31, 1997

Para sa Kinauukulan:

Ito ay nagpapatunay na si Kasamang Rolando Simon ng 7210 w Canter chassis at halal na tagasuri ng Chrysler Philippine Labor Union ay

nakasama naming sa loob ng Planta (m.M.P.C.) nuong Abril 14, 1997. Siya ay nakita naming mula alasais-imedyang umaga 6:30 AM hanggang alasdos imedyang hapon 2:30 PM.

Narito po ang aming mga pangalan at lagda.

(names and signatures of 14 persons follow).

Respondent Simon admitted that he was the one who prepared the above letter and solicited the signatures of his co-employees.<sup>[18]</sup>

The other "affidavit" is another handwritten document which states:

August 19, 1997

Ito po ay nagpapatunay na noong Abril 14, 1997 mula 6:00 ng umaga hanggang 2:34 ng hapon ako si Mr. Constantino Ajero ay pumasok at nasa loob ng planta sa nabanggit na oras at araw. Kalakip dito ang mga lagda ng aking mga kasamahan sa Aming Departamento 9210-B at ang time sheet na magpapatunay na ako ay nasa loob ng pagawaan ng MMPC.

Narito po ang mga lagda.

Dept. no. 9210-B

(Names and signatures of 19 persons follow)

We find these documents to be self-serving and as such cannot prevail over the positive assertions by Siena.

The Court of Appeals also point to the alleged inconsistencies in the affidavit of Siena, *i.e.*; that respondent Ajero signed the receipt but warned Siena not to tell anyone about the extorted money, which should have been clarified by the labor tribunals. It added that the "labor tribunals are required to utilize all necessary means to ascertain the truth considering that a worker's livelihood is at stake. We have read the affidavit referred to, and like the NLRC and the labor arbiter, we do not see the said inconsistencies. Moreover, the Court of Appeals seems to imply that it was duty of the labor tribunals to make the case for respondents. In the first place, the labor arbiter had allowed the conduct of a formal trial on the merits, wherein both respondents testified. The hearings should have been the proper venue for respondents to strike down the alleged inconsistencies, but they failed to do so. A review of the transcripts of the hearings<sup>[19]</sup> shows that these inconsistencies were not passed upon by the parties, especially by respondents themselves.

Another point of contention made by the Court of Appeals is the lack of formal criminal charges against respondents, which it deems crucial to the administrative charges against them. Again, we disagree.

A criminal charge, much more a criminal conviction, is not necessary in order to charge administratively charge and erring employee. Time and again, we have held