

THIRD DIVISION

[G.R. No. 164640, June 13, 2008]

CYNTHIA GANA, Petitioner, V.S. THE NATIONAL LABOR RELATIONS COMMISSION, ABOITIZ HAULERS, INC., and CARL WOZNIAK, Respondents.

DECISION

AUSTRIA-MARTINEZ, J.:

Assailed in the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 71318 promulgated on April 30, 2004 affirming the Decision^[2] of October 31, 2000 and the Order^[3] dated May 3, 2002 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 020479-99 (NLRC NCR Case No. 06-04712-98); and the CA Resolution^[4] dated July 26, 2004, denying petitioner's Motion for Reconsideration.

The facts of the case are as follows:

Aboitiz Transport System (Aboitiz Transport), Aboitiz Container Services, Inc. (Aboitiz Container) and Aboitiz Haulers, Inc. (respondent company) are sister corporations belonging to the Aboitiz Group of Companies. Sometime in 1996, Aboitiz Transport entered into a marketing agency contract with another corporation, Trans-America Leasing (Trans-America). During that time, Trans-America had an existing contract with Aboitiz Container wherein the latter served as Trans-America's container depot. Subsequently, herein respondent company entered into a contract with Trans-America wherein the former took over the obligations of Aboitiz Transport to Trans-America.

On December 1, 1996, Cynthia Gana (petitioner) commenced her employment as marketing manager of Total Distribution and Logistics System, Inc. (TDLSI),^[5] another sister company of Aboitiz Transport, Aboitiz Container and respondent company. As marketing manager, petitioner received a monthly salary of P20,000.00 plus a monthly allowance of P15,000.00; and she availed herself of the company car plan.

On August 15, 1997, petitioner was transferred from TDLSI to respondent company retaining the same position as marketing manager.

On April 21, 1998, petitioner was required by private respondent Carl Wozniak (Wozniak), the Senior Vice-President and General Manager of Aboitiz Haulers, to explain in writing why she should not be penalized for having violated company rules on offenses against company interest. Wozniak directed her to appear in an investigation to be conducted by the company and defend herself with respect to the electronic mails (e-mails) she sent to an official of Trans-America, divulging various

confidential information about the business operations and transactions of Aboitiz Container which are detrimental to the said company.^[6]

On April 24, 1998, petitioner, through her counsel, sent a letter to Wozniak denying the charges against her.^[7]

In a letter dated May 22, 1998, Wozniak informed petitioner that her explanations during the investigation with respect to the charges leveled against her were found to be unacceptable; that she was found guilty of Betrayal of Confidential Information which constitutes sufficient reason for the company to lose the high degree of trust and confidence which it reposed upon her as its manager; and that as a result, her employment with respondent company has been terminated.^[8]

Petitioner then filed a Complaint for illegal dismissal with the National Labor Relations Commission (NLRC) in Quezon City.^[9]

On June 14, 1999, the Labor Arbiter (LA) rendered a Decision ^[10] finding respondent company guilty of illegally dismissing petitioner.

On appeal, the NLRC set aside the Decision of the LA. The dispositive portion of the NLRC Decision reads:

WHEREFORE, the appealed decision dated June 19, 1999 is **SET ASIDE** and a new one is **ENTERED** dismissing the instant complaint for lack of merit. Respondent company is however ordered to return to complainant her paid equity on the car amounting to One Hundred Eighty One Thousand Three Hundred Nine and 05/100 (P181,309.05), as well as to pay complainant financial assistance in the amount of Seventy Thousand Pesos (P70,000.00).

SO ORDERED. ^[11]

Petitioner filed a Motion for Reconsideration^[12] but the same was denied by the NLRC in its Order^[13] promulgated on May 3, 2002.

Petitioner then filed a petition for *certiorari* with the CA questioning the above-mentioned Decision and Order of the NLRC.

On April 30, 2004, the CA promulgated its presently assailed Decision^[14] dismissing the petition for *certiorari* and affirming the questioned Decision and Order of the NLRC.

Petitioner filed a Motion for Reconsideration but it was denied by the CA in its Resolution^[15] dated July 26, 2004.

Hence, the present petition raising the following issues:

1. WHETHER SHE [PETITIONER] WAS ILLEGALLY DISMISSED AND OR HER DISMISSAL WAS IN VIOLATION OF DUE PROCESS;

2. WHETHER SHE [PETITIONER] IS ENTITLED TO REINSTATEMENT AND BACKWAGES AS WELL AS MONETARY CLAIM AND POSITIVE RELIEF FOR AWARD OF DAMAGES AND ATTORNEY'S FEES;

3. WHETHER THE APPEAL OF PRIVATE RESPONDENT WAS FILED OUT OF TIME.
[16]

Petitioner posits that the marketing agency contract between respondent company and Trans-America requires transparency; that any information considered significant to the conduct of Trans-America's business should be forwarded to it considering that both companies are actually business partners; and that petitioner's e-mails sent to Trans-America may not be considered disclosure of confidential information regarding the business operations and transactions of respondent company or of Aboitiz Container as, in fact, there is nothing confidential contained in said e-mails. As such, petitioner claims that there is no factual and legal basis in dismissing petitioner from her employment.

Petitioner also avers that there was a violation of her right to due process as there was no just cause for termination and that respondent company failed to comply with the requirements of procedural due process. Petitioner claims that she was forced to submit to the investigation conducted by respondent company.

Private respondents, on the other hand, contend that petitioner failed to show any palpable error or grave abuse of discretion on the part of the CA or the NLRC and that the present petition is a mere reproduction of the arguments and assertions which were already passed upon by the CA and the NLRC in their assailed decisions.

Private respondents also assert that, contrary to petitioner's contention, their appeal with the NLRC was timely filed; and that the delay, if any, in the filing of the said appeal was justified when government offices were closed and government workers were sent home early due to inclement weather conditions on the supposed last day of filing of their appeal.

Private respondents contend that petitioner was not denied due process because she was given the requisite notices as well as ample opportunity to explain her side as required by the Labor Code.

The Court finds the petition devoid of merit.

As to the first assigned error, petitioner alludes to the LA's conclusion that she was denied procedural due process, to wit:

We could not likewise lend credence to respondent's contention that complainant was afforded due process before effecting his [sic] dismissal, if at all, the alleged due process granted the complainant was more farcical than real.

We find the aforesaid legal requirements absolutely disregarded by the respondents in the case at bar, and certainly, the complainant could not be faulted for having challenged her severance from employment as an unreasonable infringement of her constitutional right to security of tenure and due process.^[17]

The Court agrees with the NLRC and to the CA that this conclusion has no basis. The LA Decision failed to cite any evidence or factual circumstance which would support the conclusion that petitioner was not accorded procedural due process. The NLRC aptly found that there is sufficient proof to show that respondent company complied with the requirements of procedural due process. The Court quotes with approval the following disquisition of the NLRC:

As with procedural due process requirements, We find complainant to have been accorded with the same. It is undisputed that on April 21, 1998, respondent company sent complainant a show cause letter due to her various violations. On April 24, 1998, complainant through her counsel, Atty. Franco Loyola, submitted an explanation letter denying the charges against her. On May 22, 1998, after investigation hearing, respondent company found her guilty of willful breach of trust and confidence and gross misconduct and dismissed her from employment. The foregoing show that respondent company complied with the procedural due process requirements. x x x^[18]

Settled is the rule that the requirements of due process are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand.^[19] In the present case, petitioner, as shown above, was given this opportunity.

Anent the second issue, petitioner relies on the conclusion of the LA that there is no sufficient evidence to justify petitioner's termination from employment on the ground of loss of trust and confidence. However, evidence shows otherwise. The LA cited private respondent's letter terminating petitioner from her employment to prove that respondent company failed to show sufficient evidence to establish the charges against petitioner. Contrary to the conclusion of the LA, it is very clear in the said letter that respondent company enumerated the facts and circumstances upon which petitioner's termination was based. Pertinent portions of the letter are as follows:

Last April 22, 1998, an investigation was conducted in order to give you the chance to present your side of matters that were contained in the letter to explain dated April 21, 1998 that was sent to you and which you received last April 21, 1998 also.

During the said investigation, it was established that:

- a) You sent email messages/reports to Leslie Leow of Transamerica last March 9, 1998 and March 25, 1998 regarding the company's internal problems with the truckers, depot and special permit to load (spl) and the rates charge[d] by ACSI to its customers.
- b) You sent again email message last April 16, 1998 to Leslie Leow concerning the complaints of Mr. Carmelo Garcia regarding the company's poor services which puts the company's credibility to deliver good service in