590 Phil. 436

THIRD DIVISION

[G.R. No. 165389, October 17, 2008]

NFD INTERNATIONAL MANNING AGENTS AND A/S VULCANUS OSLO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, JOSE I. ILAGAN, JR. AND CONSTANTINO CO, JR., RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Assailed in the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the June 21, 2004 Decision[1] and September 14, 2004 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 78870.

The facts of the case are as follows:

Jose I. Ilagan, Jr. and Constantino Co, Jr. (private respondents) were among 21 Filipino seamen hired by herein petitioner NFD International Manning Agents, Inc. (NFD) to work on board the chemical tanker *M/T Lady Helene*, a vessel owned and operated by petitioner A/S Vulcanus Oslo (Vulcanus), NFD's foreign principal.

On February 11, 1997, while *M/T Lady Helene* was at Island View Port, Durban, South Africa, Ship Master Captain Steiner Andersen dismissed the 21 Filipino seamen, including herein private respondents, from their employment. They were subsequently repatriated, arriving in the Philippines on February 15, 1997.

On March 3, 1997, NFD filed before the Adjudication Office of the Philippine Overseas Employment Administration (POEA), a disciplinary complaint against the 21 seamen alleging that they were guilty of mutiny, insubordination, desertion/attempting to desert the vessel and conspiracy. Subsequently, in an Order[3] dated October 12, 1999, the POEA Adjudication Office dismissed the disciplinary complaint filed by NFD, ordering that the names of the 21 seamen be removed from the POEA watchlist.

Meanwhile, on May 6, 1997, private respondents, together with eight (complainants) of the 21 seamen whose employments were terminated, filed with the National Labor Relations Commission (NLRC), National Capital Region in Quezon City, a Complaint[4] for wrongful breach of contract, illegal dismissal and damages against NFD and Vulcanus, contending that: they were summarily dismissed from their employment without just and valid cause and in gross violation of the terms of their employment contracts; they were forcibly disembarked from the vessel; at the time of their discharge, and up to the filing of their complaint, they had not been paid their accrued salaries, guaranteed overtime pay and leave pay; for their summary dismissal, forcible disembarkation and subsequent repatriation, they seek recovery of their unpaid wages and other benefits as well as moral and exemplary damages

and attorney's fees.

In their Position Paper,[5] NFD and Vulcanus (petitioners) contended: The complainants were validly and lawfully dismissed from their employment for their acts of "mutiny, insubordination, desertion/attempting to desert the vessel and conspiracy among themselves together with the other Filipino seamen in refusing and or failing to join M/T Lady Helene in its next trip or destination to Mauritius without just and valid cause"; contrary to complainants' claim, they were not forcibly disembarked from the vessel; four out of the ten complainants had already withdrawn their complaints; out of the remaining six complainants, five were given the option to return to *M/T Lady Helene* and rejoin it in its next trip to Mauritius; the filing of the complaint was merely an afterthought of the complainants after NFD filed cases for disciplinary action against them; complainants were not entitled to any of the amounts which they sought to recover, instead, they should reimburse NFD for the expenses incurred by the latter in connection with their valid dismissal and subsequent repatriation to the Philippines.

In their Reply to Respondents' Position Paper,[6] complainants averred that no single specific act of insubordination, desertion or attempt to desert the vessel or refusal to sail with the vessel was attributed to them; the Filipino crewman who reportedly instigated the alleged mutiny was among those absolved of any liability by petitioners in exchange for a waiver or quitclaim which he may have had against the latter; the disciplinary cases filed against them was a tactical move resorted to by herein petitioners to preempt complainants from filing a complaint for illegal dismissal; nothing was alleged and no evidence was presented to prove that complainants were accorded the benefit of due process before they were terminated from their employment.

In their Rejoinder,[7] private respondents contended that the Affidavit[8] of Anselmo V. Rodriguez, NFD President and General Manager, contained several attachments proving the illegal acts of the complainants; that it was an act of desperation on the part of complainants to put color to the action of NFD in promptly reporting to the POEA the illegal acts committed by the latter; that, on the contrary, the complaint for illegal dismissal, which was filed three months after their termination from employment took place, was the complainants' belated move to serve as a smokescreen for their illegal acts.

On January 30, 1998, the Labor Arbiter (LA) rendered judgment dismissing the Complaint on the ground that the complainants were lawfully dismissed for just cause.[9]

Complainants filed an appeal with the NLRC.[10]

On August 30, 2001, the NLRC promulgated a Decision,[11] the dispositive portion of which reads as follows:

> WHEREFORE, the assailed decision is set aside. The respondents [herein petitioners] are directed to jointly and severally pay the appellants complainants[herein private respondents and their companions] their wages for the payment of the unexpired portion of their respective contracts, and unpaid wages including moral and exemplary damages of

> P50,000.00 each and ten percent (10%) attorney's fees of the total amount awarded. The complaint of Alcesar Baylosis is hereby dismissed in view of the settlement of the monetary claims effected on July 17, 1997.
>
> SO ORDERED.[12]

Herein petitioners then filed a Motion for Reconsideration.[13] On April 9, 2002, the NLRC came up with the herein assailed Resolution[14] which granted petitioners' motion and reinstated the Decision dated January 30, 1998 of the LA in their favor.

Complainants filed a Motion for Reconsideration[15] but it was denied by the NLRC in its Order[16] promulgated on June 16, 2003.

Thereafter, five out of the ten original complainants, to wit: Jose I. Ilagan, Jr. (herein private respondent), Reynaldo G. Digma, Francisco C. Octavio, Constantino D. Co, Jr. (herein private respondent) and Jesus G. Domingo filed a special civil action for *certiorari* with the CA assailing the April 9, 2002 Resolution and the June 16, 2003 Order of the NLRC.[17]

On September 17, 2003, the CA issued a Resolution[18] denying due course to and dismissing the petition for *certiorari* on the ground that only one out of the five petitioners therein signed the verification and certificate against forum-shopping attached to the petition without any showing that such petitioner was duly authorized to sign for and in behalf of the other petitioners.

On October 3, 2002, herein private respondents filed a Motion for Reconsideration with Motion to Exclude Reynaldo G. Digma, Francisco C. Octavio and Jesus G. Domingo as petitioners on the ground that the above-named seamen were still abroad by reason of their employment.[19]

In a Resolution[20] dated October 16, 2003, the CA reinstated the petition insofar as herein private respondents were concerned.

On June 21, 2004, the CA promulgated the presently assailed Decision in favor of private respondents, the dispositive portion of which reads:

> WHEREFORE, premises considered, the petition is **GRANTED**. The resolution and order dated April 9, 2002 and June 16, 2003 of the NLRC are hereby **ANNULLED** and **SET ASIDE**. The NLRC decision dated August 30, 2001 is hereby **REINSTATED**.
>
> SO ORDERED.[21] (Underscoring supplied)

Herein petitioners filed a Motion for Reconsideration[22] but the CA denied it in its Resolution of September 14, 2004.

Hence, the present petition with the following assignment of errors:

I.

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN DISREGARDING THE FINDINGS OF THE LABOR ARBITER AND THE NATIONAL LABOR RELATIONS COMMISSION, WHICH FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

II.

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN HOLDING THAT PETITIONERS FAILED TO PRESENT SUBSTANTIAL EVIDENCE PROVING THAT RESPONDENTS WERE DISMISSED FOR JUST AND VALID CAUSE.

THE EVIDENCE ON RECORD PROVES THAT RESPONDENTS WERE GUILTY OF MUTINY, INSUBORDINATION, DESERTION/ATTEMPTING TO DESERT THE VESSEL AND CONSPIRACY WITH THE OTHER FILIPINO SEAFARERS IN REFUSING AND/OR FAILING TO JOIN M/T LADY HELENE IN ITS NEXT TRIP OR DESTINATION.

III.

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT [RESPONDENTS'] TERMINATION WAS EFFECTED WITHOUT DUE PROCESS OF LAW.

IV.

THE HONORABLE COURT COMMITTED GRAVE ERROR IN HOLDING THAT [RESPONDENTS'] TERMINATION WAS ATTENDED BY BAD FAITH OR DONE CONTRARY TO MORALS, GOOD CUSTOMS OR PUBLIC POLICY.[23]

The petition has no merit.

The basic issue to be resolved in the instant case is whether private respondents' termination from their employment was valid.

There are two requisites which must be complied with by an employer for a valid dismissal of employees, to wit: (1) the dismissal must be for a just or authorized cause; and (2) the employee must be afforded due process, *i.e.*, he must be given opportunity to be heard and to defend himself.[24]

Anent the first requisite, it is a basic principle that in the dismissal of employees, the burden of proof rests upon the employer to show that the dismissal is for a just and valid cause and failure to do so would necessarily mean that the dismissal is not justified.[25] This is in consonance with the guarantee of security of tenure in the Constitution and in the Labor Code. A dismissed employee is not required to prove his innocence of the charges leveled against him by his employer.[26] The determination of the existence and sufficiency of a just cause must be exercised with fairness and in good faith and after observing due process.[27]

The Court is not persuaded by petitioners' contentions in its first and second assigned errors that the CA should have accorded respect and finality to the findings

of fact and conclusions of the LA as these are supported by substantial evidence; that petitioners, in fact, were able to present substantial evidence to prove that private respondents were guilty of mutiny, insubordination, desertion/attempt to desert their vessel and conspiracy with the other Filipino seamen in refusing to join said vessel in its next trip.

Factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality. However, the rule is not without exceptions, one of which is when the findings of fact of the labor officials on which the conclusion is based are not supported by substantial evidence.[28] Another exception is when it is perceived that far too much is concluded, inferred or deduced from bare facts adduced in evidence.[29] Moreover, when the findings of the LA and the NLRC are inconsistent with that of the CA, as in the instant case, there is a need to review the records to determine which of them should be preferred as more conformable to evidentiary facts.[30] The Court finds that the present case falls under the above-mentioned exceptions.

After a review of the arguments and evidence of the parties, the Court sustains the findings and conclusions of the CA, the same being in accord with the facts and law of the case.

The Court agrees with the following findings and conclusion of the CA, to wit:

> [Herein petitioners] charged [herein private respondents] for mutiny, insubordination, desertion and conspiracy in refusing to join the vessel in its next trip. However, except for the disagreement between Capt. Andersen and Engine Fitter Castillo, when the latter refused to resume his work in the Engine Room wherein the other Filipino crew sided with Castillo, there is no proof showing the alleged mutinous and concerted actions of the [private respondents] against Capt. Andersen. There is also the glaring absence of corroborative statements of other officers or crew on board attesting that [private respondents] participated directly or indirectly to any wrong doing, or even intervened in the quarrel between Andersen and Castillo. The records fail to establish clearly the commission of any threat, or any serious misconduct which would justify [private respondents'] dismissal.[31]

which affirmed the earlier finding of the NLRC in its August 30, 2001 Decision, thus:

> We also noted that [herein petitioners'] various charges against the [private respondents] were bereft of factual details showing the alleged mutinous and concerted actions of herein [private respondents] against the ship captain. The absence of competent evidence or corroborative statements of other officers or crew on board attesting to the fact that complainants have participated directly or indirectly, to any wrongdoing or intervened in the quarrel of the Ship Captain with Fitter Bautista[32] deters us in considering the said charges with probity.[33]

Moreover, the above-quoted findings of the CA and the NLRC are consistent with the findings of the POEA in its October 12, 1999 Order dismissing the disciplinary