

FIRST DIVISION

[G.R. NO. 165476, March 10, 2006]

**AGRIPINO V. MOLINA, PETITIONER, VS. PACIFIC PLANS, INC.,
RESPONDENT.**

DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review on *Certiorari* assailing the Decision^[1] and Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 81298 reversing the Decision^[3] of the National Labor Relations Commission (NLRC) in NLRC-NCR (South) Case No. 30-07-03393-01.

Pacific Plans, Inc. (PPI) is a domestic corporation engaged in the business of selling pre-need plans, such as educational, pension, and memorial plans.^[4] It maintains regional offices throughout the Philippines. At the time material to this case, Metro Manila regional offices were divided into two sales divisions — the South Sales Division and the North Sales Division. Metro Manila VI was part of the North Sales Division.^[5] Among the corporate officers of PPI were Geoffrey Martinez, Executive Vice-President for Finance; Luciano Abia, Senior Assistant Vice-President, Metro Manila Marketing Division; and Atty. Manuel Reyes, the Head of the Legal Department.^[6] Roy Padiernos then occupied the position of Regional Manager of Metro Manila VI.^[7]

PPI solicited subscribers and buyers of its pre-need plans through clusters of sales associates. One of them was Ruth Padiernos, wife of Roy Padiernos.^[8]

Sometime in October 1994, PPI hired Agripino Molina as Regional Manager of Metro Manila VI, replacing Roy Padiernos who was promoted as First Vice-President for Marketing Operations. As Regional Manager, Molina performed both administrative and marketing functions, whose duties and responsibilities included the following:

- a. formulating and recommending short and long range marketing plans for the Region and executing approved plans;
- b. generating new and conserving existing pre-need plan businesses;
- c. motivating, training, and developing a dedicated and effective counselor force;
- d. conducting researches to determine sales potentials and share of the market, pricing, and profitability of Company's products, competition and the directing of product development for the Region;
- e. hiring and terminating counselors, unit managers or group managers in accordance with policies previously laid out;

- f. recommending the creation of additional positions or termination of services of any employee within the Region;
- g. recommending promotions or changes in salaries of personnel within the Region and lateral shifts of supervisor, their assistants, understudies of positions of equal rank;
- h. training and developing understudies for each position within the Region to provide immediate replacement whenever vacated;
- i. changing methods and procedures not affecting the other Regions, provided, however, that radical changes should first be cleared with [the] superior;
- j. controlling the operations of the Region and establishing a system of periodic work reporting;
- k. coordinating the Region's activities with those of the other Regions;
- l. keeping [the] superior informed of [the] Region's activities and specially of [the] decision on matters for which he may be held responsible;
- m. realizing the Company's objective for service, growth, and profit;
- n. establishing and maintaining harmonious and dignified relationship with plan holders, counselors, employees, the public, government instrumentalities, other pre-need plan companies; [and]
- o. further enhancing the prestige of the Company and maintaining its position of leadership in its field.^[9]

Since Metro Manila VI was consistently on top in terms of nationwide sales and productivity, Molina was promoted Assistant Vice-President with the same functions as those of a regional manager of the same sales region.^[10]

Caritas Health Shield, Inc. (Caritas for brevity), a health maintenance organization (HMO) engaged in selling health and hospitalization plans, was established on December 16, 1998. Geoffrey Martinez resigned as Executive Vice-President of PPI and became the President and Chief Executive Officer of Caritas.^[11] Among the incorporators and members of the Board of Directors were Luciano Abia and Atty. Manuel Reyes.^[12] Molina was hired as Assistant Vice-President and Marketing Head of Area 10. His wife, Fe Molina, was the head of a sales agency of Caritas.

In the meantime, from February 2000, there was a considerable decrease in the sales output production of PPI's Metro Manila Region VI.^[13]

On March 21, 2000, Molina received a Memorandum from PPI, through its Senior Assistant Vice-President for Human Relations, Patricio A. Picazo, informing him that, based on written reports, he committed the following: 1) recruiting and pirating activities in favor of Caritas, in particular, initiating talks and enticing associates to join Caritas, and a number of associates have already signed up; 2) he called for a meeting with his associates sometime in November 1999, and solicited contributions from them for the bill but later asked for reimbursement from the company; and 3) acts of misdemeanor on several occasions, such as coming to the office under the influence of liquor, initiating a smear campaign against PPI, and other acts inimical to the company's interest.^[14] Molina was also required to submit, on March 23, 2000, a written explanation why he should not be held administratively liable for said acts which, it opined, might constitute conduct unbecoming of an officer, conflict of interest, and breach of trust and confidence. Molina was also informed

that he was preventively suspended pending formal investigation effective immediately until April 24, 2000.^[14]

In a letter addressed to Picazo dated March 22, 2000, Molina categorically denied the acts attributed to him. He, however, requested that he be furnished with copies of the alleged written reports to enable him to prepare the required written explanation.^[16] However, instead of acceding to the request of copies of the written reports, Picazo wrote a letter dated April 3, 2000, citing the particulars of the charges against Molina, thus:

I. Conflict of Interest

1. Recruiting and pirating activities in favor of Caritas Health Shield, Inc.

* You have acted as conduit for Caritas in recruiting/pirating Mr. Restie Acosta on March 04, 2000 and Ms. Eppie Acosta on March 06, 2000.

*Your failure to stop and/or tolerating your wife's activities in recruiting for Caritas Ms. Lennie Gatmaitan who belongs to Ms. Celeste Villena, a PPI GA.

II. Misappropriation of Funds

1. Solicitation of associates' personal funds in the amount of P200.00 per person, to which 12 persons contributed for a total P2,400.00, for payment of official function during the meeting held at Barrio Fiesta last November 27, 1999. Amount solicited was subsequently reimbursed from the company but not returned to the associates concerned.

III. Dereliction of Duties

1. You failed to prevent associates from leaving the company in favor of competitors, thus causing demoralization among your sales associates.
2. You even encouraged associates to transfer to Caritas.

IV. Conduct unbecoming of a Company Officer

1. Often reporting to office under the influence of liquor.
2. Sowing intrigue in the case of Vilma del Rosario which almost caused her early retirement from the company and transfer to Caritas.
3. Sowing intrigues between Mr. Roy Padiernos and Mr. Abia.
4. Showing disrespect to immediate superior, Mr. Roy Padiernos, by shouting at him and walking out in one of the meetings called by him after the retirement of Atty. Haceta.^[17]

During the investigation the following day, April 4, 2000, Molina reiterated his request to be provided with a copy of the written reports.^[17] Picazo denied the request in a Memorandum dated April 6, 2000, and reiterated his order for Molina to submit his written explanation on April 11, 2000, and to address his concerns during

the investigation scheduled on April 14, 2000.^[19] Molina failed to submit any written explanation. On April 24, 2000, PPI issued a Memorandum advising Molina that he would be reinstated in the payroll effective April 25, 2000 without requiring him to report for work during the pendency of his investigation.^[20]

Molina filed a "Motion to Dismiss Complaints and Motion for Full Reinstatement" on May 2, 2000.^[21] He asserted that the charges should be dismissed since he was compelled to prepare a written explanation on the basis of "summarized specific acts," denying him the right to be informed of the exact charges and to confront those who made written reports against him. As to the issue of reinstatement, he alleged that he should be allowed to report for work, conformably with Rule XIV, Section 4 of the Implementing Rules of the Labor Code.^[22]

On May 11, 2000, Picazo wrote Molina that his motion to dismiss the charges would be resolved after the investigation. He was warned that his non-appearance at the investigation would be considered a waiver of his right to be heard.^[23]

On the same day, May 11, 2000, Abia issued an inter-office Memorandum announcing the appointment of Sercy F. Picache as the Officer-In-Charge (OIC) for Metro VI and XVI effective May 6, 2000.^[24]

Molina and his counsel attended the May 19, 2000 investigation and filed a Motion to Suspend Proceedings,^[25] praying that the administrative investigation be deferred until the resolution of the "prejudicial" issues raised in his previous motion.^[26]

When Picazo failed to respond, Molina filed, on June 1, 2000, a complaint for damages with a prayer for a temporary restraining order and preliminary injunction based on Article 19 of the New Civil Code. PPI filed a Motion to Dismiss, maintaining that the courts have no jurisdiction over matters arising from employee-employer relationship. The trial court denied the motion as well as PPI's motion for reconsideration.^[27]

Meanwhile, in letter dated June 13, 2000, Molina was notified of the termination of administrative investigation. PPI considered his failure to submit a written explanation as a waiver of his right to be heard, and as such, the investigating committee had evaluated the evidence at hand and submitted its recommendations to the "higher management" for decision. Also, it confirmed the denial of his Motion to Suspend Proceedings.^[28]

On June 23, 2000, the trial court issued an Order granting Molina's prayer for temporary restraining order, which was later made permanent per its Order dated July 12, 2000. The motion for reconsideration filed by PPI on July 26, 2000 was likewise denied. Thereafter, it filed a petition for *certiorari* before the CA, assailing the writ of preliminary injunction issued by the RTC and its order denying the motion to dismiss the complaint. On July 16, 2001, the CA rendered judgment in favor of PPI and nullified the writ of preliminary injunction issued by the RTC as well as the order denying the motion of PPI for the dismissal of the complaint.^[28]

On July 30, 2001, PPI resolved to dismiss Molina from employment on its finding

that the latter violated its standard operating procedure. [30]

Molina forthwith filed a complaint with the NLRC against PPI and Alfredo C. Antonio, Patricio A. Picazo, and Certerio B. Uy, in their capacity as President, Senior Assistant Vice-President of Human Resources Development, and Division Head, respectively, for illegal dismissal and illegal suspension with claim for monetary benefits.

In his Position Paper, [31] Molina principally argued that he was denied the right to due process due to the failure of PPI to furnish him a copy of the written reports of the sales associates and co-employees, the basis of the accusations against him. Since an OIC for his position was already appointed even before all his pending motions were resolved, he surmised that there were really no such reports, and that the alleged accusations were merely concocted in order to replace him with someone close to Picazo. Molina maintained that since he was denied the opportunity to dispute the authenticity and substantive contents of the reports, his alleged violations of company rules and policies were hearsay and, therefore, lacked probative value. Besides, the termination of his employment was made without the 30-day prior notice; his dismissal from employment took effect immediately, only six days after PPI received the CA decision decreeing that the NLRC has the rightful jurisdiction over the case. Thus, he prayed for the following relief:

1. Total Money Claims
 - a) Salary with (overriding) commission from March 21 to April 24, 2000 — suspended w/o pay — P45,000.00 (P25,000[.00] mo. salary & P20,000[.00] [overriding])
 - b) Unpaid (overriding) commission from April 25, 2000 to present — P400,000[.00]
 - c) Unpaid salary from August 1, 2001 to present — P125,000[.00]
 - d) One mo. salary for every yr. of service in lieu of reinstatement — 7 years = P175,000.00
2. Leave Credits — P100,000.00 for 7 years
3. Profit Bonus for Year 2000 & 2001 — P400,000.00
4. Moral Damages — P300,000.00
5. Exemplary Damages — P500,000.00
6. Actual Damages — for lifetime medical attendance and medicines at 16 more years life expectancy — P1,249,384.00
7. Attorney's Fees — P300,000.00
8. Amount debited from complainant's ATM [as partial payment for hospitalization expenses incurred by him which PPI had advanced] — P12,000.00
9. Retention of complainant's car, as additional penalty for illegal dismissal. [32]

For its part, PPI stressed that Caritas was its competitor in the pre-need plans business, and that Molina and his wife recruited and enticed some of the sales associates of PPI to work for Caritas, in violation of its policy against conflict of interest. Some of these sales associates were the spouses Eppie and Restie Acosta, Lenita Gatmaitan, Lolita Casaje, Lydia Magalso, Lydia San Miguel, and Alice Halili, and including Vilma del Rosario, the secretary of Roy Padiernos. PPI, likewise, averred that Molina had the habit of coming to the office under the influence of liquor; he constantly shouted to lady employees and solicited money from his sales associates in connection with an official company function without returning the