

THIRD DIVISION

[G.R. NO. 167723, November 29, 2006]

**CLUB FILIPINO, INC., PETITIONER, VS. ROMEO ARAULLO,
RESPONDENT.**

DECISION

CARPIO MORALES, J.:

Challenged via Petition for Review is the Decision dated February 28, 2005^[1] of the Court of Appeals in CA-GR SP No. 76926, "*Romeo Araullo v. Club Filipino, Inc.*"

Romeo Araullo (respondent) was the Maintenance Supervisor of Club Filipino (petitioner). On September 30, 2000, during a routine inspection of employees who were leaving the premises of petitioner's Club House, two brand new faucets were found inside respondent's traveling bag which he claimed to be his personal property. He was to present two days later OCG Trading Original Sales Invoice No. 379612 dated September 28, 2000 in the amount of P490 purportedly covering the sale to him of the faucets.

On the same day, September 30, 2000, Ricardo Sesmar, the security-in-charge, by an Information Report,^[2] brought to the attention of the management the incident.

Acting on the Report, Salvador Arinto, the Personnel Supervisor of the Club, required respondent to explain why no disciplinary action should be taken against him.^[3] Respondent maintained, however, that the faucets were his.

An investigation of the incident was thus held on October 18, 2000 during which respondent presented evidence. Another was scheduled on December 8, 2000 during which respondent was given opportunity to present additional evidence but respondent failed to appear.

By Report of December 11, 2000, the Investigating Committee recommended respondent's dismissal for loss of trust and confidence. A December 23, 2000 notice of termination was thus served upon him.^[4]

Subsequently or on January 24, 2001, respondent filed a complaint for illegal dismissal.^[5] By Decision of November 15, 2001,^[6] the Labor Arbiter, finding that respondent could no longer be trusted by petitioner, dismissed the complaint for lack of merit.

Respondent filed an appeal to the National Labor Relations Commission (NLRC) which, by Decision of July 30, 2002,^[7] dismissed the same for lack of merit. By Resolution dated March 31, 2003,^[8] the NLRC denied respondent's Motion for

Reconsideration.

On respondent's petition for certiorari, the Court of Appeals, by Decision of February 28, 2005, reversed that of the NLRC, disposing as follows:

WHEREFORE, the instant petition is GRANTED. The Decisions of the NLRC and the Labor Arbiter are vacated and set aside. Petitioner Araullo's dismissal is hereby declared illegal. Accordingly, the respondent Club Filipino is hereby ordered to reinstate Araullo to his former position without loss of seniority rights and to pay petitioner full back wages, inclusive of allowances, including 13th month pay, as well as other monetary benefits, computed from the time his compensation was withheld from him to the time of his reinstatement. Should reinstatement be no longer possible the respondent Club Filipino should instead pay Araullo separation pay equivalent to one month a day for every year of service, with the fraction of at least six (6) months be considered as one whole year.^[9]

Finding that the period of appeal had expired, respondent filed before the appellate court a Motion for Entry of Judgment.^[10] Before the appellate court could resolve the motion, it received a copy of a Petition for Review filed by petitioner before this Court, drawing the appellate court to deny respondent's motion on May 20, 2005.^[11]

In its Petition for Review,^[12] petitioner faults the appellate court for:

1. HOLDING AND TREATING THE ORIGINAL PETITION OF THE RESPONDENT AS A PETITION FOR CERTIORARI DESPITE THE ABSENCE OF THE ALLOWABLE LEGAL GROUNDS AS WELL AS THE REQUIRED FORMALITIES;
2. DECID[ING] IN A WAY NOT IN ACCORD WITH ARTICLE 282 par.(A), (C) AND (D) OF THE LABOR CODE AND EXTANT JURISPRUDENCE IN DECLARING THE DISMISSAL OF HEREIN RESPONDENT TO BE ILLEGAL.
3. DECIDING THAT THE COPY OF THE RESPONDENT'S RECEIPT BEARING SERIAL NO. 379612 CANNOT BE CONCLUDED AS TAMPERED DESPITE OF THE FACT THAT THE LABOR ARBITER AND THE NLRC MADE A CONCLUSIVE FINDINGS OF FACT ESTABLISHING THEREIN THAT THE RECEIPT IN POSSESSION OF THE RESPONDENT HAS BEEN TAMPERED AND FORGED.^[13]

For his part, respondent in his Comment^[14] argues that the Petition, apart from being fatally defective for lack of certification against forum-shopping, was filed beyond the reglementary period since it received the February 28, 2005 Decision of the appellate court on March 3, 2005 and, therefore, had up to March 18, 2005 to file the petition, but it filed the same only on April 27, 2005.

To prove that petitioner received a copy of the Decision on March 3, 2005, respondent attached a certified photocopy of Registry Return Receipt No. 2706^[15] covering the envelope containing the copy of said decision sent to petitioner's

counsel, and a Certification of Proof of Service of registered letter No. 2706 dated April 25, 2005^[16] of the San Juan Central Post Office which reads:

x x x x

In connection with your inquiry, I hereby certify that Registered Letter No. 2706 addressed to [petitioner's counsel]. Atty. Ernesto Tabao, Room 1004, 10th Floor Atlanta Center, 31 Annapolis Street, Greenhills, San Juan, Metro Manila, was delivered to and received by **MELANIE P. ABEJERO**^[17] — Secretary on MARCH 3, 2005.

x x x x (Emphasis and underscoring supplied)

Respondent also submitted another Certification of Proof of Service dated May 12, 2005, which was notarized by Notary Public Romualdo C. Delos Santos, reiterating the contents of the certification^[18] earlier filed.

In its Reply [to respondent's Comment] with Motion,^[19] petitioner moved for the admission of the thereto attached Verification and Certificate of Non-Forum Shopping and reiterated that a certified copy of the February 28, 2005 Decision was secured only in the morning of April 14, 2005 when, after receiving a copy of respondent's Motion for Entry of Judgment on April 13, 2005, its counsel sent a member of his staff to the Court of Appeals to check the status of the case. And it submitted a May 6, 2005^[20] Affidavit of Melanie A. Intia (Melanie). Melanie, acknowledging that her maiden name is Abejero, the family name of the one who acknowledged receipt on March 3, 2005 of copy of the appellate court's decision addressed to petitioner's counsel, claimed that she had stopped using her maiden name after her marriage in December 2004 and had since been using the surname of her husband. And she denied having received a copy of the decision of the Court of Appeals, adding that:

[the signature appearing on Registry Receipt No. 2706] although resembling my former signature when I was still single, suffers from very basic inconsistencies. In the first place [t]he M in my former signature is very prominent and enlarged as can be seen in my signature in my marriage contract (Annex "B"). Secondly, my B in my signature is not that prominent as that in the subject return card. More importantly, the "J" and the "R[" as appeared [*sic*] on the signature card is different from my former signature as appeared [*sic*] on the same marriage contract;
^[21] (Underscoring supplied)

The present petition must fail.

While the petition contains a verification and a Secretary's Certificate,^[22] it lacks a certification against forum-shopping which is generally not curable by the submission thereof after the filing of the petition, albeit the rule thereon may be relaxed on grounds of "substantial compliance" or "special circumstance or compelling reasons."^[23]

Even if the rule on certification against forum shopping were to be relaxed, however, the petition would still fail, the assailed Decision of the Court of Appeals having