

## **THIRD DIVISION**

**[ G.R. No. 143204, June 26, 2001 ]**

**HYATT TAXI SERVICES INC., PETITIONER, VS. RUSTOM M. CATINOY, RESPONDENT.**

### **D E C I S I O N**

**GONZAGA-REYES, J.:**

Before us is a petition for review under Rule 45 of the Rules of Court of the Decision<sup>[1]</sup> of the Court of Appeals dated December 27, 1999 in the case entitled "RUSTOM M. CATINOY VS. HYATT TAXI SERVICES INC., HYATT TAXI EMPLOYEE ASSOCIATION AND/OR MR. JAIME DUBLIN" that ruled against herein petitioner Hyatt Taxi Services, Inc. (hereafter petitioner) and of the Resolution dated May 11, 2000 denying the Motion for Reconsideration of petitioner.

The assailed Decision held that the preventive suspension of respondent Rustom M. Catinoy (hereafter respondent) by petitioner was without cause and without due process of law, and that petitioner constructively dismissed respondent.

The facts/antecedents of this case as found by the Labor Arbiter, NLRC and Court of Appeals are as follows:

"Complainant was hired on October 10, 1992 as a taxi driver by the Respondent Hyatt Taxi Services, Inc.

Complainant is also a member and officer (Secretary) of Respondent, Hyatt Taxi Employees Association, a legitimate labor organization registered with the Department of Labor and Employment and is the exclusive bargaining representative of all taxi drivers of Respondent Hyatt Taxi Service, Inc. Respondent Jaime Dublin is the President and Chairman of the Board of the Respondent association.

As a taxi driver, complainant works every other day for 15 days in a month earning P800.00 more or less a day after remitting to the respondent company his boundary (P650.00/day) during carbarn time 1:00 a.m. Being the Secretary of the Union/association, complainant keeps all the records and documents of the association in the drawer of his desk at the Union Office which is located inside the premises of Respondent company.

On August 21, 1995 at about past 10:00 a.m., complainant went inside the union office and to his surprise found his drawer to have been forcibly opened. Since he saw the acting President of the Union, Mr. Tomas Saturnino inside the office together with two rice suppliers namely

Melencio Reyes and Ms. Rosalinda Balahan, complainant asked Saturnino who opened his drawer. Saturnino replied that he was the one who forcibly opened the drawer to retrieve some documents particularly the list of union members. An argument ensued and complainant even reminded Saturnino that he should respect the rights and functions of other officers of the association. Saturnino then approached the complainant and shoved him. Complainant retaliated with fist blow but it failed to hit Saturnino and the latter hit him twice in (sic) the face causing one of his tooth (sic) to fall. The aggression of Saturnino was only interrupted when the Operations Manager of the respondent company (sic) Mr. Caraig (sic) intervened and told him (Saturnino) to stop. Complainant was brought to the hospital by Ms. Balahan and Mr. Reyes due to the bleeding that occurred due to the loss of his tooth. After securing medical treatment, complainant on the same day filed a criminal complaint for physical injuries with the fiscal's Office and Saturnino was arrested by the police for investigation (Annex "A" of complainant's position paper).

On August 24, 1995 about 25 union members requested the chairman of the Board of the Association to suspend the complainant and Saturnino for engaging in a fist fight (sic) since both are officers of the union which should be models of discipline for the rank and file (Annex "A" of Respondent Association's position paper) employees.

On August 25, Jaime Dublin, Chairman of the Board of the Association, acting on the letter of some members of the association, issued a memorandum (Annex "E" complainant position paper) to the Operation Manager of the Respondent company, Mr. H. Caraig (sic) stating the following:

'This is in connection with the fist fighting (sic) incident between Mr. Tomas Saturnino and Mr. Rustom Catino, President and Secretary respectively, Hyatt Taxi Driver's Association.

As per initial investigation conducted by the committee itself, both officer (sic) have violated the Company's Rules and Regulations and likewise, the Union Policy constitution and By-Laws, Article 15 Section 1, e.i., Impeachment.

The committee further decided the indefinite suspension of the two officers pending completion of the Committee's investigation. The decision was approved by the Executive Board.

So, therefore, the committee is requesting your office to implement our recommendation/decision at the soonest possible time.'

On August 26, 1995, the Asst. Vice-President of the Respondent company (sic) Melchor Acosta, Jr. (sic) issued a memorandum preventively suspending for 30 days the services of the complainant and Saturnino pending investigation in response to the recommendation of the Chairman of the Board of the Association.

Complainant aggrieved by the preventive suspension since he was not the aggressor, filed a complaint for illegal suspension, unpaid wages, and damages against both the association-union and management on August 28, 1995 before the National Labor Relations Commission.

After the lapse of his 30 days preventive suspension, complainant reported for work but he was not allowed to resume his duties as a taxi driver allegedly, since he is pursuing the criminal complainant for physical injuries against Saturnino, the associations' President and the complaint for the illegal suspension with the National Labor Relations Commission.

On October 12, 1995, since there was no response from Respondent company, complainant decided to amend his complaint to include constructive dismissal as an additional cause of action since he was not allowed to resume his employment after the lapse of his preventive suspension."<sup>[2]</sup>

On September 19, 1997, the Labor Arbiter rendered a Decision finding petitioner guilty of illegal preventive suspension, requiring it to pay the wage equivalent of the suspension, and further finding petitioner guilty of illegal constructive dismissal, ordering petitioner to reinstate respondent and to pay him backwages and attorney's fees.

Petitioner and the Union Association then filed a Joint Memorandum of Appeal before the National Labor Relations Commission (NLRC).

On June 26, 1998, the NLRC issued a Decision affirming the decision of the Arbitration Branch. The dispositive portion of the Decision reads:

"WHEREFORE, premises considered judgment is hereby rendered:

1. Finding Respondent Hyatt Taxi Services, Inc., guilty of illegal constructive dismissal;
2. Finding Respondents Hyatt Taxi Services, Inc., and Hyatt Taxi Employees Association and/or Jaime Dublin jointly and severally liable for illegal preventive suspension;
3. Ordering Respondents Hyatt Taxi Services, Inc., and Hyatt Taxi Employees Association and/or Jaime Dublin jointly and severally liable to pay a month's wage due to complainants illegal preventive suspension in the amount of P12,000.00;
4. Ordering Respondents Hyatt Taxi Services, Inc., to pay complainant's full backwages from the time of his dismissal till actual reinstatement in the amount of P276,000.00 (computed till

promulgation only);

5. Ordering Respondents Hyatt Taxi Services, Inc. to reinstate complainant to his former position as taxi driver without loss of seniority rights and privileges immediately upon acknowledgment of this resolution;
6. Ordering Respondent Hyatt Taxi Services, Inc. to pay 10% attorney's fees based on the total judgment award on the illegal dismissal aspect;
7. Ordering the Dismissal of the complaint for damages for lack of merit.

SO ORDERED.”<sup>[3]</sup>

Aggrieved, petitioner filed a Motion for Reconsideration urging the NLRC to review the finding of facts of the Arbitration Branch.

On October 30, 1998, the NLRC acting on said Motion for Reconsideration, issued a Decision granting in part the motion. The Decision of the NLRC modified its earlier decision when it deleted the award of backwages on the ground that there was “no concrete showing that complainant was constructively dismissed”. The dispositive portion of said Decision reads:

“WHEREFORE, the Decision rendered on June 26, 1998 is hereby affirmed with modifications by deleting the award of backwages.

Accordingly, respondent is ordered to reinstate complainant without loss of seniority rights. All other aspects are hereby AFFIRMED.

SO ORDERED.”<sup>[4]</sup>

Respondent filed a Partial Motion for Reconsideration of said Decision.

On January 14, 1999, the NLRC issued a Resolution denying respondent's Partial Motion for Reconsideration.

On March 30, 1999, respondent filed a Petition for Certiorari with the Court of Appeals that sought the annulment of the NLRC Decision, alleging grave abuse of discretion in the deletion of the award of backwages.

On December 27, 1999, the Court of Appeals issued the now assailed Decision that set aside and annulled the October 30, 1998 Decision of the NLRC and reinstated the earlier decision of the NLRC dated June 25, 1998. The dispositive portion of the Decision reads: