

TWELFTH DIVISION

[CA-G.R. SP. No. 130190, January 14, 2014]

MARILOU PINO, PETITIONER, V. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), SUMINAC PHILS., INC., MR. SHOGO AOKI, AND JOEL CAAWAY, RESPONDENTS.

D E C I S I O N

ELBINIAS, J.:

For disposition is a Petition for Certiorari^[1] filed under Rule 65 of the Rules of Court. The Petition assails the Decision^[2] dated January 21, 2013 of public respondent National Labor Relations Commission ("public respondent NLRC" for brevity) in NLRC LAC NO. 06-001922-12 (NLRC-RAB IV-07-01082-12), which set aside and reversed the Decision^[3] dated March 29, 2012 of the Labor Arbiter in NLRC CASE NO. RABIV-07-01082-11-C. The Petition also questions public respondent NLRC's Resolution^[4] dated March 20, 2013, which denied petitioner's eventual Motion for Reconsideration^[5].

Among the salient facts are those as stated in the Labor Arbiter's Decision^[6] of March 29, 2012, which are as follows:

"Complainant Marilou Pino (*petitioner here*) was an employee of the respondent company (*private respondent here*) and one of the officers of the Samahan ng Mga Mangagawa sa Suminac-Independent (SMS-Independent).

xxx sometime February 9, 2011 **the respondent's company security guard presented a leaflet to individual respondent Caaway (*respondent here*) which was allegedly distributed by members of the Union including the herein complainant at the company's pedestrian entrance located at the respondent's main gate.**

The leaflet is said to contain malicious imputations against the respondent company (*private respondent*) and individual respondent Caaway (*private respondent*). It accused, among others, respondent company (*private respondent*) of continuously violating the employee's right, union busting, unfair labor practice and guilty of cheatings in the election of the respondent Company's Welfare Committee. It also cast aspersions on the character of Mr. Caaway (*private respondent*) by insinuating that he continue[s] to commit acts that violates the labor laws, by referring him as poisonous, that he misrepresented himself as lawyer and use[s] pressure on labor union and prevents the union officers from attending hearings xxx.

Respondent company (*private respondent*) conducted investigation on the personalities involved in the preparation and distribution of the leaflets. One of the members, Mr. Balogo admitted the Union's involvement. Thus, in a meeting requested by complainant Dimaano, who is the Union President then, Mr. Balogo and a certain Marife Lagmay, Dimaano admitted to Mr. Aoki (*private respondent*) and Caaway (*private respondent*) that it was the union who prepared the distributed the (sic) leaflets.

Following the admission, the respondent company (*private respondent*) sent Show Cause Memo to complainants Dimaano, Pino (*petitioner*) and Flores. Complainant Pino (*petitioner*) in her explanation letter dated May 5, 2011 denied that she has participation in the distribution and in the preparation but admitted that it was the union through the data gathered by the union members that prepared the leaflets.

On May 12, 2011 respondent company (*private respondent*) sent another show cause Memo to complainant Pino (*petitioner*) since it was dissatisfied with her explanation on her exact role on the preparation and distribution of leaflets. Complainant (*petitioner*) submitted her written explanation dated May 16, 2011 where she explained that she did not violate any laws and she merely did her job as officers (sic) of the Union and insisted that under the constitution she has the right to express and provide information in whatever means.

Thereafter, respondents (*private respondents*) conducted hearing on June 9, 2011 and after considering all the surrounding circumstances decided to terminate the employment of complainant Pino (*petitioner*) through a Letter of Termination dated June 9, 2011.”^[7] (*Emphasis supplied*)

As a result, petitioner Marilou Pino (“petitioner Pino” for brevity) filed a Complaint for Illegal Dismissal and Monetary Claims^[8] against private respondents Suminac Philippines, Inc., as well as Shogo Aoki and Joel Caaway (“private respondents” for brevity), who were sued in their capacity as President and Human Resource Manager, respectively.^[9]

On March 29, 2012,^[10] the Labor Arbiter rendered a Decision in favor of petitioner Pino, ordering private respondents to reinstate petitioner to her former position, and to pay petitioner's Backwages and Attorney's Fees. The dispositive portion of the Decision decreed:

“WHEREFORE, premises considered, complainant Marilou Pino is hereby declared illegally dismissed. Respondent Suminac Philippines, Inc. is ordered to reinstate the complainant to her former position without loss of seniority rights and to pay her backwages in the total amount of P94,805.48.

The reinstatement aspect of this decision is immediately executory and the respondent is enjoined to submit report of compliance to this Office within ten (10) days from receipt thereof.

Respondent is also ordered to pay ten percent (10%) attorney's fees.

xxx xxx xxx

SO ORDERED”^[11]

Upon petitioner's appeal, public respondent NLRC set aside and reversed the Labor Arbiter's Decision in its assailed Decision^[12] of January 21, 2013. Public respondent NLRC's reasoning was that private respondents were “able to prove by substantial evidence that complainant was validly dismissed from service”^[13].

After petitioner's Motion for Reconsideration was denied by public respondent NLRC in its assailed Resolution^[14] of March 20, 2013, petitioner filed the Petition at bench, praying that:

“xxx this Petition for Certiorari be given due course and let the Public Respondent's January 21, 2013 Decision and March 30, 2013 Resolution be reversed and set aside and declare petitioner as illegally dismissed”^[15]

Petitioner raised the following grounds:

“A.

THE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN GRANTING THE APPEAL AND DECLARED THAT PETITIONER WAS VALIDLY DISMISSED WITHOUT CONSIDERING AND TOTALLY IGNORING THE CONTEXT OF UNIONISM IN RESOLVING THE DISMISSAL ISSUE WHEN IT IS AN OBVIOUS TRUTH THAT THE DISMISSAL OF THE PETITIONER WAS BROUGHT ABOUT BY HER UNION INVOLV[E]MENT.

B.

THE HONORABLE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN TOTALLY DISREGARDING THE FACT THAT THERE IS [A] PENDING LABOR DISPUTE AT THE TIME PRIVATE RESPONDENTS INTEND TO DISMISS HEREIN PETITIONER.

C.

THE HONORABLE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN NOT GRANTING THE REINSTATEMENT AND PAYMENT OF LEGAL MONETARY CLAIMS OF THE PETITIONER.”^[16] (*emphasis supplied*)

As properly argued by petitioner in her *assigned grounds A and B*, petitioner was illegally dismissed.

In ruling that petitioner Pino was validly dismissed from employment by private respondents, public respondent NLRC stated the following in its Decision^[17] dated January 21, 2013: