

THIRD DIVISION

[CA-G.R. SP No. 131457, May 29, 2014]

**ANNALISA B. LAUDENCIA, PETITIONER, V. NATIONAL LABOR
RELATIONS COMMISSION, SECOND DIVISION, RCBC
SECURITIES, INC./DIOSDADO C. SALANG, RESPONDENTS.**

D E C I S I O N

BUESER, J.:

Assailed in this petition for certiorari filed pursuant to Rule 65 of the 1997 Rules of Civil Procedure is the Decision and Resolution of the National Labor Relations Commission dated 30 April 2013 and 14 June 2013 respectively in NLRC-LAC Case No. 02-00704-10 entitled "Annalisa B. Laudencia vs. RCBC Securities Inc./Diosdado C. Salang, Jr. "

Culled from the records^[1] are the following undisputed facts :

Petitioner Annalisa B. Laudencia (Laudencia, for brevity) started her employment with the private respondent sometime in 1994. She began as an accounts clerk and was promoted to Senior Clerk, Administrative Assistant, Operations Assistant and in 2009, she became First Officer or Section/Unit Head for Stock Position & Settlements.

On 12 January 2012, petitioner received from private respondent RCBC Securities, Inc. (the company, for brevity) a notice of preventive suspension imputing, among others, transfer out of GMA 7 shares of stock belonging to Mr. Rene Gozum and Amerigo Santos to the trading account of Joseph Valbuena as evidenced by petitioner's initial in the transaction receipts.

In addition, petitioner was charged of falsely crediting Mr. Joseph Valbuena's account of the payments made by a certain Hubert Cochien and Stephen Ku in the amount of Php 153,846.00 and Php 5,000,000.00 respectively. Provisional receipts were given to Cochien and Khu, however the payments were credited to Joseph Valbuena and official receipt was issued in Valbuena's name. Petitioner was also placed on preventive suspension effective immediately for thirty (30) days without pay.

Thereafter on 9 February 2012, the company issued another Memorandum extending petitioner's preventive suspension for another thirty (30) days from 12 February 2012.

Subsequently on 9 March 2012, petitioner received a memorandum and notice of administrative hearing requiring petitioner to submit her written explanation to the charges of loss of trust and confidence based on the following grounds: (1) violations of Securities and Regulation Code and its Implementing Rules and Regulations; (2) violations of company policies and procedures; (3) violation of Company's Code of Conduct on the treatment and use of company records; and (4) serious misconduct, commission of a crime or offense and other analogous causes

under Art. 282 of the Labor Code. Petitioner was likewise notified of the administrative hearing to be held on 12 March 2012.

On 12 March 2012, the company issued a Memorandum extending petitioner's preventive suspension for another twenty (20) days from 12 March 2012.

Petitioner submitted her explanation to the memorandum dated 13 March 2012. She denied having committed the acts being imputed to her. Petitioner explained that she would never transfer the stocks without prior instruction from the client or in this case, MG Valbuena. Since the clients have an agent, petitioner communicates with them only thru MG Valbuena since by usual business practice clients prefer to transact thru the agent and not directly to the company.

With respect to the payments credited to Joseph Valbuena, it was noted that Cochien and Kuh did not have transactions with RSEC corresponding to their check payment. Thus, petitioner informed MG Valbuena of this and the latter explained that she obtained a loan from Cochien and Kuh to settle Joseph Valbuena's buying transactions. Petitioner might have issued the official receipts in favor of Joseph Valbuena but she claimed that these were done with the knowledge and approval of the private respondent Vice President for Operations, Mr. Salang.

Petitioner also explained that with respect to the accusation of unauthorized use of company computer to perform her duties as treasurer for her religious group, she lent her USB flash drive to the RSEC. Since files have to be saved to the flash drive, she transferred her personal files to the computer assigned to her to accommodate the company. She denied that she used the company-designated computer to create excel files for her religious group and simply forgot to erase the files after her USB was returned.

Despite petitioner's explanation, the company issued a Notice of Decision on 2 May 2012 terminating her effective immediately.

Hence, on 4 May 2012, petitioner filed a complaint for illegal dismissal with claims for monetary benefits and damages before the National Labor Relations Commission. Thereafter the parties having failed to settle amicably, they were directed to submit their position papers.

The Ruling of the Labor Arbiter

On 22 December 2012, the Labor Arbiter issued a decision^[2] finding petitioner illegally dismissed and ordered her reinstatement with payment of backwages in the amount of P124, 269.22 and attorney's fees.

In finding the petitioner illegally dismissed, the Labor Arbiter stated that the imputation that petitioner effected the transfer of stocks without prior consent of Gozum and Santos was baseless. She cannot effect the transfer without a letter of instruction from the client. While petitioner prepares the "Out Receipt", the same is only made based on the client's letter of instruction. Moreover, the transfer undergoes a process which requires the approval of her superior. If there was any irregularity in the said transactions, petitioner should not be singularly faulted since these were coursed thru the agent, MG Valbuena.

So long as the documents are in order, petitioner merely performs what is incumbent upon her. She had nothing to do with the irregularity except to issue the

receipts. Petitioner sufficiently explained that she had no knowledge of any irregularity.

With respect to the accusation that she was crediting Joseph Valbuena's account with payments from Cochien and Kuh, petitioner explained that she issued the official receipts under the name of Joseph Valbuena only upon MG Valbuena's instruction. Cochien never complained to the company for the same. Moreover, after the official receipts were prepared, these were signed and approved by the Operations Head.

Petitioner's termination on the ground of loss of trust and confidence is unwarranted. Moreover, the penalty of dismissal was too harsh and disproportionate to the gravity of petitioner's offence. Hence, the order of reinstatement without loss of seniority rights, payment of backwages and attorney's fees.

Dissatisfied, the company appealed before the NLRC.

Ruling of the NLRC

The NLRC rendered the assailed decision^[3] on 30 April 2013 reversing the Labor Arbiter's resolution. The dispositive portion of the which reads:

WHEREFORE, all the foregoing premises considered, judgment is hereby rendered finding merit in the instant appeal; the appealed Decision is hereby VACATED or SET ASIDE and a new one rendered finding Complainant's dismissal from employment valid.

SO ORDERED

Petitioner moved for reconsideration but the same was denied by virtue of the assailed resolution^[4] dated 14 June 2013.

Hence, petitioner filed the instant petition for certiorari under Rule 65 of the Rules of Court on the following grounds:

I

THAT THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION SECOND DIVISION, IN ARRIVING AT THE DECISION AND RESOLUTION DATED 30 APRIL 2013 AND 14 JUNE 2013, RESPECTIVELY, COMMITTED GRAVE ABUSE OF DISCRETION IN THE FINDINGS OF FACTS BY CONCLUDING THAT PETITIONER WAS GUILTY OF ACTS OF FRAUD PREJUDICIAL TO THE INTEREST OF THE COMPANY RULES AND REGULATION ON CONFLICT OF INTEREST TANTAMOUNT TO LOSS OF TRUST AND CONFIDENCE.

II

THAT THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, IN ARRIVING AT THE DECISION AND RESOLUTION DATED 30 APRIL 2013 AND 14 JUNE 2013, RESPECTIVELY, GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO PROPERLY APPLY THE LAW AND EXISTING JURISPRUDENCE ON THE MATTER.

It is well-settled in our jurisprudence^[5] that: