

SPECIAL SEVENTH DIVISION

[CA-G.R. SP No. 132236, November 27, 2014]

**SUPERIOR MAINTENANCE SERVICE, INC., ET AL., PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST
DIVISION) AND DEVORAH SUCALDITO, RESPONDENTS.**

DECISION

INTING, S.B., J.:

This resolves the Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court praying for the reversal of the *Decision*^[2] of the National Labor Relations Commission's (NLRC) dated February 28, 2013. The challenged Decision partially granted private respondent Devorah Sucaldito's *Appeal*^[3] and declared her termination illegal and consequently granted her money claims.

THE FACTS

Sucaldito worked at petitioner Superior Maintenance Services, Inc. (SMSI) as Document Control Center Controller (DCC Controller) beginning May 2007 until her dismissal on April 3, 2012. Sucaldito responded to her dismissal by filing a complaint for illegal dismissal with prayer for reinstatement and money claims.

According to SMSI, Sucaldito worked as a DCC Controller, a Level IV Category having a rank of Department Head. Being a DCC Controller, she exercises supervisory functions and occupies a sensitive position.

On March 15, 2012, Ms. Vilma Roda, Vice President for Finance of SMSI and Sucaldito's immediate superior, filed an administrative complaint against Sucaldito for conflict of interest. According to Roda, she was alarmed by the loss of SMSI's several clients to its competitor ISS Facility Services (ISS) where Sucaldito's husband is employed as the Human Resources Manager (HR Manager). This fact prompted Roda to file an administrative investigation against Sucaldito for conflict of interest. She claimed that Sucaldito's husband was hired by ISS on January 25, 2012 and right after his hiring, several key personnel of SMSI were pirated by ISS.

On March 19, 2012, SMSI required Sucaldito to explain in writing within five (5) days from receipt of its letter why no sanctions should be taken against her for loss of trust and confidence. She was likewise informed that she will be placed under preventive suspension for fifteen (15) days pending the investigation of the complaint filed against her.^[4] On March 23, 2012, Sucaldito appeared at the administrative hearing without a counsel. Therein, she submitted her written explanation^[5] on the charges against her.

In the investigation that SMSI conducted in response to the administrative complaint

filed by Roda, Sucaldito admitted that her husband is working with ISS as HR Manager since January 25, 2012. However, she denied being responsible or accountable for the loss and transfer of several SMSI clients and employees to ISS.

On April 2, 2012, SMSI sent Sucaldito a *Termination Notice*.^[6] SMSI terminated Sucaldito's services on the ground of loss of trust and confidence. The termination was effective April 3, 2012.

In her defense, Sucaldito alleged that there is no sufficient and valid reason to terminate her for loss of trust and confidence. She pointed out that she already informed her area managers and co-employees regarding her husband's employment with ISS even from the time of his application until he was eventually hired, and even if she did not formally inform SMSI of her husband's employment, no injury was caused to SMSI that would lead her to the charges taken against her and cause her subsequent termination. She further alleged that she could not be held responsible or accountable for the loss of several accounts and resignation of some SMSI employees as these circumstances took place long before her husband joined ISS. More to that, her employment contract with SMSI did not mandate her to divulge the employment status of her husband whether he is unemployed or employed with other companies. For another, Sucaldito claimed that ISS cannot even be considered a competitor considering that it is engaged in catering services, a business which is totally different from SMSI's field of business which is recruitment services, i.e. SMSI essentially supplies workers to several establishments. For the foregoing reasons, Sucaldito thus claimed that she cannot be terminated on the ground of loss of confidence.^[7]

Ruling of the Labor Arbiter and the NLRC

On July 30, 2012, Labor Arbiter Enrique L. Flores, Jr. resolved the case against Sucaldito and found that her dismissal from service was valid. In the *Decision*^[8], the Labor Arbiter held that Sucaldito's position as DCC Controller is of such nature as to require a substantial amount of trust and confidence and under the circumstances of the case, SMSI cannot be expected to retain its trust and confidence and continue her employment by reason of her actuation which is perceived to be inimical to its interest. In dismissing the complaint, the Labor Arbiter however granted Sucaldito's claim for service incentive leave pay and 13th month pay.

Aggrieved, Sucaldito filed an appeal with the NLRC. On February 28, 2013, the NLRC issued a Decision partially granting the appeal of Sucaldito by declaring her dismissal illegal. It held that SMSI failed to prove by substantial evidence that valid grounds exist for terminating her employment due to loss of trust and confidence. It explained that SMSI has gone too far in terminating the services of Sucaldito merely because of the insinuation that the losses it incurred were due to her failure to divulge her husband's employment with its alleged competitor, and which it deems to be the recipient of its trade secrets and other essential documents which are in Sucaldito's custody by reason of her position as DCC Controller. It thus disposed of the case as follows:

"WHEREFORE, premises considered, complainant's appeal is **PARTLY GRANTED**. The assailed Decision of Labor Arbiter Enrique L. Flores Jr.

dated July 30, 2012 is **AFFIRMED** with **MODIFICATION** in that complainant is hereby declared to have been illegally dismissed and, therefore, entitled to backwages and separation pay in lieu of reinstatement. The award of service incentive leave pay and proportionate 13th month pay for year 2012 is affirmed while complainant's claim for moral and exemplary damages is denied for lack of merit.

The Computation Division of the Office is hereby directed to make the necessary computations of the monetary award granted to complainant, which computation shall form an integral part of this decision.

SO ORDERED."

The NLRC denied^[9] the *Motion for Reconsideration*^[10] that SMSI subsequently filed, prompting the employer company to seek relief from this Court through the present petition for *certiorari*.

THE ISSUES

Petitioner SMSI cites the following grounds:

A) WHETHER OR NOT PUBLIC RESPONDENT FIRST DIVISION OF THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN MODIFYING THE DECISION RENDERED BY LABOR ARBITER ENRIQUE L. FLORES JR;

B) WHETHER OR NOT HEREIN PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED FROM HER EMPLOYMENT;

C) WHETHER OR NOT HEREIN PRIVATE RESPONDENT IS ENTITLED TO HER MONEY CLAIMS; and

D) WHETHER OR NOT PETITIONERS ARE ENTITLED TO DAMAGES, ATTORNEY'S FEES AND COST OF SUIT.

In sum, SMSI basically raises the issue of whether or not the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the assailed decision declaring Sucaldito illegally dismissed and granting her money claims.

THIS COURT'S RULING

The LA found that Sucaldito was dismissed for cause. The NLRC, on the other hand, found that she was illegally dismissed. It was the latter's finding that although Sucaldito holds a position of trust and confidence, being a DCC Contoller, SMSI failed to present evidence that she committed an act that would justify the loss of trust and confidence reposed in her.