

## SECOND DIVISION

[ G.R. No. 184452, February 12, 2020 ]

**LUFTHANSA TECHNIK PHILIPPINES, INC., ANTONIO LOQUELLANO AND ARTURO BERNAL, PETITIONERS, VS. ROBERTO CUIZON, RESPONDENT.**

### DECISION

**HERNANDO, J.:**

Challenged in this appeal is the March 5, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 02998 which held that respondent Roberto Cuizon (Cuizon) had been illegally dismissed.

#### The Parties

Petitioner Lufthansa Technik Philippines, Inc. (LTP) is a corporation duly organized under Philippine law, and is engaged in the business of aircraft maintenance, repair and overhaul (MRO). It provides technical support and MRO services for the entire fleet of Philippine Airlines (PAL).<sup>[2]</sup> Petitioner Lorenzo Ziga is impleaded in his capacity as officer of LTP, while petitioner Antonio Loquellano (Loquellano) is impleaded in his capacity as an MA2 Division Manager of LTP, and who is the immediate supervisor of herein respondent Cuizon. On the other hand, petitioner Arturo Bernal is impleaded in his capacity as the Duty Manager of the Maintenance Control Center of LTP, and is also the Chairman of the Employee Council of LTP (collectively, petitioners).<sup>[3]</sup>

As an MRO provider, LTP's mechanics and engineers perform routine maintenance checks of its clients' aircrafts to ensure the safety of the passengers as well as the aircrafts' scheduled commercial flights. LTP operates a branch located in the Mactan International Airport, Cebu City, known as MA2, which serves LTP's clients' aircrafts that land in said airport.<sup>[4]</sup>

Cuizon had initially worked with the Maintenance and Engineering Department of PAL for 32 years. Eventually, LTP absorbed said department and its employees, including Cuizon. He held the position of MA2 Duty Manager in LTP's Cebu Station from September 1, 2000 until his dismissal on August 16, 2005.<sup>[5]</sup>

#### The Antecedents

Petitioners claim that they validly terminated Cuizon's employment on August 16, 2005 for loss of trust and confidence in his ability to perform his duties as MA2 Duty Manager. They point out that such loss of trust and confidence resulted from Cuizon's numerous violations and blatant disregard of the LTP Standards in the Workplace, which violations were committed in the course of two separate incidents, specifically:

1. [Cuizon's] willful concealment of the accidental light-up of PAL Aircraft EI-BZE [on] 10 March 2005, [accidental light-up incident] and
2. [Cuizon's] failure to observe the safety guidelines and precautions of petitioner LTP with respect to aircraft towing, which caused damage to PAL Aircraft RP-C4008 [on] 15 April 2005 [towing incident].<sup>[6]</sup>

*Petitioners' Version on the First Incident: Concealment of the accidental light-up incident*

On March 10, 2005, Cuizon was assigned as Duty Manager and Project Manager in MA2 during the scheduled conduct of an A01 Check of PAL Aircraft EI-BZE, which was assigned to Avionics Crew Chief Julio J. Valencia (Valencia) and Avionics Mechanics Joselito Y. Gargantiel (Gargantiel) and Jonas A. Cabajar (Cabajar). An A01 check includes an ignition check.<sup>[7]</sup>

Thus, Gargantiel and Cabajar performed the LH Engine Igniter Operational Check of PAL Aircraft EI-BZE. In the course thereof, they verified the actual operation of the engine igniters. Cabajar noted that the exhaust was emitting hot gas, which was followed by a flame that extended for about one and one-half meters (1.5m) in length. Cabajar immediately notified Gargantiel, Valencia and Aircraft Mechanic Rio M. Aguilar. Upon their assessment, they found that the No. 1 Engine Fan Blades could not be rotated manually by hand, and that an accidental light-up had most likely occurred.<sup>[8]</sup>

Eventually, Cuizon was called to the scene. Cuizon then instructed those on hand to cool the engine, which action still failed to remedy the situation. Consequently, Valencia suggested to Cuizon that pursuant to the Handbook of LTP, the latter should call the Maintenance Control Center (MA4) in Manila to apprise them of the situation. Despite the foregoing standard operating procedure, Cuizon opted to first tow the aircraft to the MA2 hangar and continued with the scheduled A01 check prior to informing the MA4 in Manila.<sup>[9]</sup>

Eventually, Cuizon called MA4 Duty Manager Carlos A. Ramirez (Ramirez) of MA4 in Manila. However, instead of informing Ramirez that an accidental light-up had occurred, he reported that the "No. 1 Engine Fan Blade of Aircraft EI-BZE was found hard to rotate upon arrival."<sup>[10]</sup> Cuizon likewise relayed the same information to Inspector Venustiano Suson who generated a Ground Maintenance Log of the incident.<sup>[11]</sup>

In Cuizon's March 11, 2005 Report,<sup>[12]</sup> he likewise concealed the accidental light-up incident and merely indicated that the "LH engine fan motor blades cannot be rotated freely."<sup>[13]</sup> However, Cuizon's Report contradicted the incident reports filed by Gargantiel, Cabajar, and Valencia, who indicated in their respective reports that an accidental light-up had occurred in the course of the LH Engine Igniter Operational Check of PAL Aircraft EI-BZE. As a result of the contrasting reports, Cuizon submitted a revised report which then indicated that the LH engine froze as a result of the accidental light-up. Moreover, to exonerate himself, he claimed that he made an immediate verbal report to Loquellano about the accidental light-up, which the latter denied.<sup>[14]</sup>

Petitioners' Version on the Second Incident: RP-C4008 Towing Incident on April 15, 2005

On April 15, 2005, or a month after the accidental light-up incident, Cuizon was involved in a towing incident that resulted in substantial losses to LTP.<sup>[15]</sup>

On said date, Cuizon was the Duty Manager and Project Manager for an A12 Check of a PAL Boeing Aircraft RP-C4008. For this particular A12 Check, Loquellano designated certain individuals as members of the Phase Check Crew, headed by Cuizon, in his capacity as Duty Manager and Project Manager. Thus, a certain Mr. G. Sarmiento, Jr. (Sarmiento), an Airframe and Powerplant Mechanic, was assigned as a Headset Man for the towing crew in view of having been duly trained and licensed as such.<sup>[16]</sup>

Petitioners claim that in the course of the A12 Check of Aircraft RP C4008, Cuizon took the headset from Sarmiento and performed the tasks of the latter, without authority to do so and despite having no expertise on such matters. Cuizon then assigned Cabajar as a Headset Man, who was inexperienced and unqualified as such.<sup>[17]</sup> Cuizon then left his team in the hands of Cabajar, while he returned to the hangar in order to initiate housekeeping thereof. He also allowed the wing walkers and tail guides to leave their positions before the towing of the aircraft to Bay 31 was completed.<sup>[18]</sup>

Among the diagnostics to be performed in an A12 Check is RH Engine Ignition Operational Check. Since the aircraft was located within LTP's hangar in Mactan International Airport, Cuizon instructed the members of the Phase Check Crew to tow the aircraft to the run-up area at Bay 31.<sup>[19]</sup>

Petitioner LTP points out that based on the Boeing Maintenance Manual, the following safety precautions should be performed prior to the towing of the aircraft: (i) the hydraulic system should be pressurized; (ii) the brake hydraulic pressure is approximately 3,000 per square inch (psi); and (iii) the wing flaps are up. However, Cuizon disregarded the foregoing precautions and continued to tow the aircraft to Bay 31.<sup>[20]</sup>

In addition, Cuizon failed to await the prior clearance from the Mactan International Tower, which, at the time the aircraft was being towed, had not yet been informed of the aircraft movement.<sup>[21]</sup>

As a consequence of the foregoing, RP-C4008 was grounded for repair due to the damage sustained by the aircraft's LH Wing Inboard Trailing Edge Flaps upon its collision with a four-foot high utility post, which was located on a grassy field near the edge of the cemented portion of the ramp between Bays 32 and 33. As a result, LTP spent US\$21,000.00 for the repair of the damaged wing flaps plus US\$14,470.00 as lease charge for the entire period the aircraft was grounded.<sup>[22]</sup>

In view of the foregoing infractions, and the damage sustained by RP C4008 as a result thereof, Cuizon, together with Tow Tractor Operator Reynaldo Dulce and Cabajar, were served with show cause memorandum by Loquellano for having committed a violation on safety, as provided in Article 6.2.3.2 of LTP's Standards at the Workplace,<sup>[23]</sup> which states:

6.2.3.2. **Violation of Safety.** - Violating safety rules and regulations issued by competent government authority or by company or otherwise endangering, jeopardizing, or compromising in any manner, by way of action, the safety of any company operation, deliberately or through negligence.<sup>[24]</sup>

#### *Respondent Cuizon's Version*

In his defense, Cuizon asserts that petitioners have no basis in terminating him; hence, the termination was illegal. Cuizon avers that he was being singled-out due to events prior to the accidental light-up and towing incidents. He explains that prior to the foregoing incidents, an anonymous letter was circulated, which was addressed to LTP's President and CEO, Andreas Heimer, and to some of the LTP's officers. The letter was allegedly criticizing Loquellano's handling of the company in Cebu and his other alleged culpabilities, which are inimical to LTP's interest. In the same letter, Cuizon was being praised for his work ethic and named as the better person to hold the position of MA-2 Manager than Loquellano. Loquellano suspected Cuizon as the sender of the anonymous letter. As a result, Cuizon received a cold treatment from his direct superior, Loquellano.<sup>[25]</sup>

Cuizon further points out that he was the only one terminated despite the involvement and admissions of the other personnel.<sup>[26]</sup> In addition, he claims that petitioners railroaded his efforts to procure documents necessary to defend himself, such as transcripts of the investigation.<sup>[27]</sup> He asserts that petitioners had no basis in terminating him, thus his termination was illegal.<sup>[28]</sup>

With regard to the accidental light-up incident, Cuizon claims that he immediately informed Loquellano through a phone call about his findings.<sup>[29]</sup> He also asserts that he timely submitted/furnished a copy of his incident report<sup>[30]</sup> to Loquellano. Moreover, he argues that he did not conceal any information, rather, he could not immediately conclude the finding that there was an accidental light-up because the same had to be confirmed using a *boroscope*.<sup>[31]</sup>

With regard to the towing incident, Cuizon claims that he did not abandon the towing crew but only proceeded to do other tasks to support the leak check that was meant to be conducted on the aircraft's engine.<sup>[32]</sup>

On May 25, 2005, Cuizon received a Request for Explanation<sup>[33]</sup> from Loquellano regarding the towing incident on April 15, 2005, charging him with violation of safety rules based on LTP's rules and guidelines. On June 1, 2005, Cuizon submitted his response<sup>[34]</sup> to the request for explanation. On June 9, 2005, he received another Request for Explanation<sup>[35]</sup> for an accidental aircraft engine light-up which occurred on March 10, 2005, wherein he was charged with negligence on the job, false information, insubordination or willful disobedience, and fraud against the company.<sup>[36]</sup> Cuizon submitted his response<sup>[37]</sup> to said request for explanation on June 13, 2005.

After conducting a hearing on the matter, LTP issued on August 9, 2005 a Memorandum<sup>[38]</sup> finding Cuizon to have violated LTP's safety rules and guidelines, negligence on the job, false information, and was dismissed from the service.<sup>[39]</sup>

On November 7, 2005, Cuizon filed a complaint for illegal dismissal against petitioners, docketed as NLRC RAB-VII Case No. 11-2384-2005. The complaint was then scheduled for mandatory conference, however, no amicable settlement was reached between the parties.<sup>[40]</sup>

On May 4, 2006, the Labor Arbiter rendered a Decision<sup>[41]</sup> dismissing Cuizon's complaint for illegal dismissal. The dispositive portion of said Decision reads:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring respondents NOT GUILTY of illegally dismissing complainant from his employment. However, respondents LUFTHANSA TECHNIK PHILIPPINES, ANDREAS HEIZNER, THOMAS RUECKERT, LORENZO ZIGA, ANTONIO LOQUELLANO and ARTURO BERNAL are hereby ordered to pay, jointly and severally, complainant ROBERTO CUIZON the total amount of SEVENTY-NINE THOUSAND SIX HUNDRED NINETY-ONE PESOS and 42/100 (P79,691.42), Philippine currency, representing the 13<sup>th</sup> and 14<sup>th</sup> month pay including the commutation of complainant's earned leave credits, within ten (10) days from receipt hereof, through the Cashier of this Arbitration Branch.

Other claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[42]</sup>

Aggrieved, Cuizon appealed to the National Labor Relations Commission (NLRC).

In its Decision<sup>[43]</sup> dated March 6, 2007, the NLRC likewise held that there was no illegal dismissal in respect to Cuizon. The dispositive portion of the NLRC's Decision reads:

**WHEREFORE**, premises considered, the decision of the Labor Arbiter dated 4 May 2006 is hereby **AFFIRMED**.

SO ORDERED.<sup>[44]</sup>

Cuizon filed a Motion for Reconsideration, which was denied in the NLRC's Resolution dated June 27, 2007.<sup>[45]</sup>

Cuizon thereafter filed a Petition for *Certiorari*<sup>[46]</sup> under Rule 65 of the Rules of Court with the CA, claiming that the NLRC's March 6, 2007 Decision and June 27, 2007 Resolution should be annulled and set aside for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>[47]</sup>

In its Decision<sup>[48]</sup> dated March 5, 2008, the CA in CA-G.R. SP No. 02998 found the petition meritorious. Thus, the CA reversed the findings of the Labor Arbiter and the NLRC and held that Cuizon was indeed illegally dismissed.

The CA pointed out that: (i) petitioners herein failed to establish that Cuizon had intentionally, willfully, knowingly and purposely breached his duty as would warrant his dismissal on the ground of loss of trust and confidence. Moreover, the appellate court noted that Cuizon was the only one sanctioned/terminated despite the clear participation of other personnel involved in the two incidents; (ii) Cuizon could not be guilty of deliberately giving false, inaccurate, misleading, incomplete or delayed