

FIRST DIVISION

[G.R. No. 223082, June 26, 2019]

**CMP FEDERAL SECURITY AGENCY, INC. AND/OR MS. CAROLINA
MABANTA-PIAD, PETITIONERS, VS. NOEL T. REYES, SR.,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review assails the August 28, 2015 Decision^[1] and January 26, 2016 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 138291 finding no grave abuse of discretion on the part of the National Labor Relations Commission (NLRC) in ruling that petitioner CMP Federal Security Agency, Inc. (CMP Federal) had illegally dismissed respondent Noel T. Reyes, Sr. (Reyes) from service.

Factual Antecedents

CMP Federal is a duly licensed security agency with petitioner Carolina Mabanta-Piad as its President and Chief Executive Officer (collectively, petitioners).

Sometime in August 2010, CMP Federal hired respondent Reyes as Security Guard and assigned him at the Mariveles Grain Terminal (MG Terminal) in Mariveles, Bataan. He was twice promoted, first as Shift-in-Charge, and then on September 15, 2015, as Detachment Commander.^[3]

According to Reyes, petitioners were not in favor of his promotion as Detachment Commander because they wanted a certain Robert Sagun (Sagun) for the position, but they had to accede to the request of MG Terminal, one of CMP Federal's valued clients.^[4] Reyes himself was reluctant to accept the promotion because he was only a high school graduate with little knowledge about operating computers and thus believed that he was ill-equipped to accomplish the written reports that the new position entailed.^[5] Thus, it was arranged that Sagun would assist Reyes in the preparation and submission of reports.^[6]

Reyes claimed that, from then on, CMP Federal would treat him unaffably and that he would be rebuked incessantly by his superiors, who told him that he was not fit for the job. He would also be invariably snubbed by CMP Federal's Operations Manager, Arnel Maningat (Maningat), who would relay orders and instructions from the main office to Sagun, and not to him, for implementation.^[7]

He also claimed that he received *via* e-mail various complaints from Maningat, as follows:

- i. A complaint in February 2013 for non-observance of the rule on timely submission of the Daily Situation Reports;
- ii. A complaint on April 11, 2013 for failure to comply with the client's instruction that led to the complaint of Mr. Albert G. Bautista, General Manager of MG Terminal;
- iii. A complaint on April 16, 2013 regarding his direct transaction with Ed and Racquel Garments for the procurement of uniforms for the MG Terminal Detachment;
- iv. Two (2) complaints on May 9, 2013 for the incomplete data of MG Terminal's Daily Situation Report for the month of April 2013, and for failure to report to Maningat the incident pertaining to two (2) CMP Federal security personnel who were confronted by the personnel of Personajes Trucking; and
- v. A complaint on May 23, 2013 for failure to follow Maningat's instruction to designate Sagun as Shift-in-Charge.^[8]

On June 1, 2013, Reyes formally received Offence Notices^[9] pertaining to the complaints from CMP Federal and was ordered immediately suspended until July 20, 2013.^[10] Upon the expiry of the suspension period, Reyes reported back to work, only to be confronted by additional complaints against him contained in the Reply by Indorsement dated July 20, 2013, which states:

You are hereby directed to explain in writing within FIVE (5) days upon receipt hereof why you should not be charged [with] the following:

1. **Insubordination:** For not: following the instruction of Mr. Arnel Maningat, Operations Manager[,] to designate SO Robert Sagun as Shift-in-Charge effective 01 May 2013, and designated him as ordinary guard instead;
2. **Negligence (4th Offense):** For failure to report to the Operations Manager the incident pertaining to the two (2) security personnel in the persons of SG Rommy Ramiterre and SG Jesus Sumalbag who were confronted by the Personajes Trucking Personnel, wherein as Detachment Commander, [you] are duty-bound to report to the latter all matters pertaining to the [o]perations;
3. **Violation of Section 1.B.c, Rule X of RA 5487:** For providing confidential information relative to the Cabcaban Vacant Lot takeover, wherein this office has received a reports [sic] that you allegedly leak [sic] the information to your subordinates on the drinking session last 02 December 2012 that eventually reached the knowledge of the [MG Terminal] General Manager.

Failure to comply within the prescribed period shall be construed as [a] waiver of your right to be heard.

For your strict compliance.^[11]

On July 22, 2013, Reyes timely submitted his explanation,^[12] controverting the accusations against him. Nevertheless, CMP Federal barred Reyes from reporting to work, and told him instead to await the decision of the management regarding the complaints.^[13]

Reyes claimed that he kept on reporting for duty until July 30, 2013^[14] when he was verbally informed of his termination. Indeed, on this very date (July 30, 2013), he received a Notice of Termination, that reads:^[15]

After due investigation, you are hereby found liable for the following:

1. **Insubordination** - For failure to follow the instruction of the Operations Manager last 01 May 2013;
2. **Negligence (4th Offense)** - For failure to report to the Operations Manager the incident involving two (2) security personnel [who were] confronted by the personnel of Personajes Tmcking; and
3. **Violation of Ethical Standard (Sec.1.B.c, Rule X of RA 5487)** - For revealing confidential information to unauthorized persons relative to takeover of Cabcaben Vacant Lot.

Such acts are punishable by dismissal under items No. 1.15, 3.24, and 1.2 of the Agency's Table of Offenses, Administrative Charges & Penalties.

In view of the foregoing, **YOU ARE HEREBY DISMISSED FROM CMP FEDERAL SECURITY AGENCY, INC. FOR SERIOUS MISCONDUCT.**

^[16]

Reyes thereafter lodged a complaint for illegal dismissal, non-payment of service incentive leave, separation pay, reimbursement of expenditures for supplies and cash bond, with a prayer for payment of moral and exemplary damages, as well as attorney's fees.^[17]

Petitioners denied the complaint and averred that, starting January 2013, Reyes had been remiss in the discharge of his duties as Detachment Commander at MG Terminal;^[18] that Reyes' dismissal was justified because Reyes was negligent in the performance of his duties as shown by his repeated disregard of company rules; that Reyes' position was one of trust and confidence, to which Reyes proved untrustworthy when he leaked confidential information. This breach, according to the petitioners, stymied CMP Federal's planned takeover of the vacant Cabcaben property.^[19]

The petitioners likewise asserted that they observed procedural due process in dismissing Reyes from service; that through the e-mails and Reply by Indorsement that he received, Reyes was sufficiently apprised of the specific incidents that led to the charges against him and was provided ample opportunity to explain himself and controvert the charges; that an investigation was then conducted wherein, based on Reyes' own admission and from the statements obtained from his fellow security guards, Reyes was found guilty of the violations charged. Thus, the Notice of

Termination dated July 30, 2013 was served upon him on even date.^[20]

On the claim for service incentive leave pay, the petitioners denied liability for the same, contending that they were not remiss in paying this benefit. Anent Reyes's claim for damages, the petitioners argued that Reyes failed to present any clear and convincing evidence to show that the petitioners acted in bad faith.^[21]

Riding of the Labor Arbiter

On June 26, 2014, Labor Arbiter Fe S. Cellan rendered a Decision,^[22] the dispositive portion of which reads:

WHEREFORE, premises considered, respondent CMP Federal Security Agency, Inc. is hereby ordered to pay complainant the amount of P5,220.00 representing his service incentive leave pay.

All other claims are denied.

The complaint against individual respondent Ms. Carolina Mabanta-Piad is dismissed for lack of merit.

SO ORDERED.^[23]

In so ruling, the Labor Arbiter ratiocinated that the just cause for Reyes' dismissal was adequately substantiated by the petitioners who also proved that they complied with the due process requirements for termination of employment. The claim for illegal dismissal and separation pay, therefore, must necessarily fail, according to the Labor Arbiter. Nevertheless, the Labor Arbiter held that Reyes was entitled to service incentive leave pay for the years 2011 and 2012, in the aggregate amount of Php 5,220.00, since the petitioners failed to establish prior payment thereof.^[24]

Ruling of the National Labor Relations Commission

Finding merit in the appeal, the NLRC, through its September 24, 2014 Decision,^[25] reversed the Labor Arbiter's ruling in this wise:

WHEREFORE, premises considered, the Appeal is GRANTED and the assailed Decision dated 26 June 2014 is REVERSED and SET ASIDE. Respondent CMP Federal Security Agency, Inc. is directed to:

- a) Pay complainant separation pay in lieu of reinstatement in [an] amount equivalent to one (1) month pay for every year of service reckoned from his employment up to finality of this Decision;
- b) Pay full backwages to complainant from the time he was illegally dismissed on 20 July 2013 up to finality of this Decision;
- c) Pay the amount of Php 5,220.00 to complainant representing his service incentive pay;

- d) Pay the amount of Php 8,900.00 to complainant representing reimbursement of expenditures for supplies;
- e) Pay the amount of Php 3,400.00 to complainant for the cash bond; and
- f) Pay the amount corresponding to 10% of the judgment award to complainant as and by way of attorney's fees.

SO ORDERED.^[26]

Diametrically opposed to the Labor Arbiter's findings, the NLRC held that Reyes committed no serious misconduct that could have warranted his dismissal. Moreover, the NLRC held, that in dismissing Reyes,^[27] the petitioners did not comply with the detailed steps of procedural due process, as laid down in *United Tourist Promotions v. Kemplin*.^[28]

The NLRC elucidated that wrongful intent, an indispensable element of serious misconduct, was not duly established by the petitioners; and that on the contrary, Reyes' Written Explanation dated July 22, 2013 clearly showed that there was no deliberate intent on his part to violate CMP Federal's rules and regulations.^[29] Furthermore, the NLRC noted that a perusal of the Reply by Indorsement dated July 20, 2013 would show that no hearing or conference was scheduled and conducted by petitioners to give Reyes an opportunity to explain and clarify his defenses from the charges against him, to present evidence in support of his defenses, and to rebut the evidence presented against him.^[30] Without the benefit of a hearing prior to his dismissal and absent just cause for his termination, Reyes's dismissal was struck down by the NLRC as illegal.^[31]

Consequently, the NLRC awarded Reyes with full backwages and separation pay, in lieu of reinstatement, under the doctrine of strained relations. On the claims for non-payment of service incentive leave and reimbursement for expenditures of supplies and cash bond, the NLRC ruled that Reyes was entitled to the same because the petitioners had failed to overcome the burden, which rests on the employer, of proving payment of the said monetary claims. However, considering that no malice or bad faith could be attributed to the petitioners, the NLRC dismissed the claim for moral and exemplary damages. Finally, the NLRC awarded attorney's fees since Reyes was compelled to litigate to seek redress for his grievances.^[32]

The petitioners moved for reconsideration but this motion was denied through the NLRC's October 20, 2014 Resolution.^[33]

Ruling of the Court of Appeals

Ascribing grave abuse of discretion on the part of the NLRC for reversing the Labor Arbiter's finding, the petitioners filed with the CA a Petition for *Certiorari* with Prayer for Issuance of Temporary Restraining Order. Unfortunately for the petitioners, the CA, in its assailed Decision, upheld the NLRC's rulings thus: