

## SECOND DIVISION

[ G.R. No. 217896, June 26, 2019 ]

**THE HERITAGE HOTEL, MANILA, PETITIONER, VS. LILIAN SIO,  
RESPONDENT.**

### RESOLUTION

**CAGUIOA, J:**

Before the Court is a Petition for Review on Certiorari<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision dated November 21, 2014 (Assailed Decision)<sup>[2]</sup> and Resolution dated April 16, 2015 (Assailed Resolution)<sup>[3]</sup> of the Court of Appeals (CA) Special Fifteenth Division and Former Special Fifteenth Division, respectively, in CA-G.R. SP No. 127460.

#### Facts

Petitioner The Heritage Hotel Manila (Heritage) employed Lilian Sio (Sio) as a Service Agent on September 1, 1995. She was last assigned at the hotel's restaurant, Le Cafe.<sup>[4]</sup> Her tasks included assisting in the serving of food and beverages to Heritage's guests.<sup>[5]</sup>

The case involves two separate penalties of suspension imposed upon Sio for incidents occurring on two different dates.

The first subject incident occurred on April 29, 2011, at around 11:00 in the evening. One of Heritage's guests, Erlinda Tiozon (Tiozon), ordered food and beverage using Heritage's Player Tracking System (PTS), a system where clients earn points while playing at the casino inside Heritage's premises, which points may be used to purchase food and beverages.<sup>[6]</sup> The parties dispute what happened thereafter.

According to Sio, Tiozon was unable to present her PTS card which is needed to process orders. Sio sought the advice of Jeffrey Bumatay (Bumatay), the slot machine host in the casino, and asked for his approval. The latter, however, refused to act on the request without the PTS card. Sio relayed the matter to Tiozon, who became furious. To avoid confrontation, Sio went back to Bumatay and explained the situation. It was then that Bumatay allowed the transaction and processed the orders of Tiozon.<sup>[7]</sup>

On the other hand, Heritage avers that Tiozon was a VIP guest of Philippine Amusement and Gaming Corporation (PAGCOR), one of Heritage's biggest clients which draws several guests for Heritage because of the latter's casino operations inside the hotel. After an investigation, Heritage discovered that Tiozon requested Sio to get her PTS Card at the slot machines area so that the former could order

food and beverage. Instead of answering Tiozon politely, Sio arrogantly and sarcastically said, "[D]i ako pwede kumuha ng PTS card sa slot machine basement area." The impolite response irked Tiozon. Realizing that Tiozon was already upset, Sio then took Tiozon's order and went to get her PTS card. She, thereafter, proceeded to Bumatay to obtain the latter's approval for the orders. Bumatay asked Sio if there were slot machine supervisors in Sio's area who could approve her orders, as per standard operating procedure. But the latter sarcastically answered, "[P]upunta pa ba ako dito sa SM main area kung mayroong supervisor doon sa HBC?!"<sup>[8]</sup>

After Tiozon complained of her encounter with Sio to Bumatay and because of his own experience, Bumatay submitted to Heritage a written report/complaint dated April 30, 2011.<sup>[9]</sup> On May 2, 2011, Heritage issued a memorandum requiring Sio to submit her written explanation on the following violations of Heritage's Code of Conduct:

#### Major Offense #09

Show of discourtesy, disrespect or use offensive, obscene, or insulting language or arrogance either by acts or words towards Hotel guests, clients, suppliers, superiors or fellow employees.

#### Major offense #10

Creating or contributing to disturbance, or engaging in scandalous behavior, inside Hotel premises or committing any act which in any manner disturbs the peace and order within the company premises whether on or off duty.

#### Major Offense #11

Engaging another person into a (*sic*) heated or near violent arguments or discussions. This includes use of obscene, grave, profane and humiliating language against another person.<sup>[10]</sup>

On May 13, 2011, Sio submitted her written explanation<sup>[11]</sup> denying Bumatay's narration in his report/complaint. On May 26, 2011, an administrative hearing was conducted, wherein Bumatay and another witness who was an employee of Heritage, Jesse Barroga, affirmed the statements in the former's report.<sup>[12]</sup> Sio, instead of refuting the charges, apologized to Bumatay and signed the minutes of the administrative hearing.<sup>[13]</sup> After finding her guilty of the charges, Heritage imposed upon Sio the penalty of one-week suspension from June 7 to 14, 2011.<sup>[14]</sup> Sio served her suspension.

The second subject incident occurred on September 21, 2011. Another Heritage client, Mussa Mendoza (Mendoza), together with a companion, ordered a clubhouse sandwich from Sio. After some time, Mendoza's companion cancelled the order. Sio thereafter overheard Mendoza inquiring about her order, at which point Sio informed Mendoza that an unidentified female customer cancelled her orders. Sio then approached Mendoza's companion and, in a strong voice, remarked, "*Ikaw na magexplain sa kanya at baka maghanap pa siya.*" Embarrassed and offended by

Sio's arrogant remark as she felt "like she was a dog looking for a food to eat,"<sup>[15]</sup> Mendoza lodged a complaint against Sio on September 22, 2011 with Heritage's Human Resource (HR) Department. The HR director summoned Sio to the investigation room to explain. Therein, Sio apologized to Mendoza but the same was rejected by the latter.<sup>[16]</sup>

On October 5, 2011, Sio was issued a second memorandum<sup>[17]</sup> requiring her to explain in writing why no disciplinary action should be imposed on her for violating the same provisions of the company rules as those enumerated in the earlier May 2, 2011 memorandum and, additionally:

Major Offense #28

Issuing statements or committing acts inimical to Hotel's image, interest or reputation.<sup>[18]</sup>

Sio submitted her explanation dated October 7, 2011,<sup>[19]</sup> stating that Mendoza's allegations in her complaint were purely hearsay because Sio was not talking to Mendoza but to the latter's companion when she was quoted as saying, "*Ikaw na mag-explain sa kanya at baka maghanap pa siya.*"<sup>[20]</sup>

Finding no merit in her explanation, Heritage issued a memorandum and a Report, both dated October 21, 2011, finding Sio guilty of the new charges and imposing upon her the penalty of suspension for two (2) weeks, beginning October 18 to November 2, 2011, with a warning that a similar offense in the future would merit dismissal.<sup>[21]</sup>

Aggrieved and averring that she was likewise an active union member, Sio filed a complaint for Unfair Labor Practice (ULP), illegal suspension and other monetary claims before the arbitration branch of the National Labor Relations Commission (NLRC).

In a Decision dated April 24, 2012,<sup>[22]</sup> the Labor Arbiter (LA) dismissed Sio's complaint for lack of merit. According to the LA, Sio failed to refute Heritage's allegations and even apologized to her complainants during the hearings. The LA concluded that Sio's suspension was based on valid and legitimate grounds and that such act of Heritage was not tantamount to illegal suspension, being a legitimate exercise of management prerogative.

Sio appealed to the NLRC, which rendered a Decision dated July 31, 2012,<sup>[23]</sup> denying the appeal and affirming the LA's findings. According to the NLRC, Sio failed to disprove Heritage's charges, thus, making the suspensions based on said charges legal. Additionally, the NLRC ruled that as the suspensions were legal, the charge of ULP must perforce fail. Sio filed a Motion for Reconsideration (MR) which was, however, denied in a Resolution dated September 18, 2012. Hence, Sio filed a Petition for *Certiorari* under Rule 65 of the Rules of Court with the CA.

In the Assailed Decision, the CA partially granted Sio's petition and annulled and set aside the NLRC's rulings. According to the CA, the complaining guests were not adduced by Heritage to corroborate the latter's charges.<sup>[24]</sup> The evidence presented

by Heritage, specifically the report/complaint of Bumatay and the complaint of Mendoza were hearsay evidence, thus, bereft of any evidentiary value.<sup>[25]</sup> Finally, Sio's alleged statements could hardly be considered arrogant and as sufficient grounds for her suspension.<sup>[26]</sup> In sum, the CA found that the NLRC committed grave abuse of discretion in affirming the ruling of the LA<sup>[27]</sup> and found Heritage guilty of illegal suspension. As such, the CA awarded Sio backwages and other benefits as well as moral and exemplary damages, thus:

**WHEREFORE**, in light of all the foregoing, the petition is **PARTIALLY GRANTED**. Accordingly, the decision dated July 31, 2012 and resolution dated September 18, 2012 of public respondent National Labor Relations Commission in NLRC LAC No. 06-001823-12 are **ANNULLED** and **SET ASIDE**.

Private respondent, The Heritage Hotel, is found liable for illegal suspension and is hereby **ORDERED** to pay petitioner Lilian S. Sio the amount of P50,000.00 as moral damages and P50,000.00 as exemplary damages. This case is thus **REMANDED** to the Labor Arbiter for the computation, within 30 days from receipt hereof, of the backwages, inclusive of allowances and other benefits due petitioner, computed from the time her compensation was withheld up to the time of her actual reinstatement, in addition to the aforesaid amounts.

SO ORDERED.<sup>[28]</sup>

Heritage filed an MR but the same was denied in the Assailed Resolution. Hence, the present recourse.

In assailing the findings of the CA, Heritage avers that: 1) the CA erred in disturbing the factual findings of the LA, as affirmed by the NLRC,<sup>[29]</sup> which findings are supported by substantial evidence;<sup>[30]</sup> 2) Bumatay's report is not hearsay as he himself was a complainant in the administrative case against Sio, having himself received disrespectful words from Sio; 3) Bumatay was not an employee of Heritage but that of PAGCOR, one of Heritage's biggest clients which operates a casino inside the hotel's premises. Heritage, on the other hand, offers food and beverages to the guests of PAGCOR in the latter's casino, under a contract between the two entities; 4) being a client of Heritage which draws in a significant number of guests to the hotel, it is of paramount importance to Heritage that it provides top-quality service to PAGCOR's guests and treats the Tatter's employees with respect;<sup>[31]</sup> 5) Sio was afforded every opportunity to deny all the charges against her but instead of doing so, she apologized to her complainants; 6) having proven the charges against Sio, and with Sio having failed to even deny such charges and confront her complainants during the administrative hearings, Heritage had no choice but to penalize her with suspension;<sup>[32]</sup> 7) pieces of evidence, other than the allegedly hearsay report/complaint, were presented by Heritage such as the minutes of the administrative hearing;<sup>[33]</sup> 8) the CA failed to appreciate the arrogant and offensive manner by which Sio's questioned statements were made and merely focused on their literal meaning;<sup>[34]</sup> and 9) as Sio's suspensions were valid, the award in her favor of backwages and other benefits as well as moral and exemplary damages was

improper.<sup>[35]</sup>

### Issue

Whether the CA erred in ruling that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when the latter affirmed the LA's decision and found that the suspensions of Sio were valid and legal.

### Ruling

There is merit in the petition.

At the outset, the Court notes that the Petition raises mixed questions of law and fact. In a petition for review on certiorari, generally, only questions of law may be raised and questions of fact may not be inquired into.<sup>[36]</sup> However, as the findings of the labor tribunals, on the one hand, and the CA, on the other, are conflicting, the present case falls under jurisprudential exemptions to this general rule.<sup>[37]</sup> Hence, the Court may proceed to resolve the issues raised herein.

In examining the present Rule 45 Petition, the Court is mindful of the nature of the petition resolved by the CA in its assailed rulings. The CA reviewed the decision of the NLRC through a special civil action for *certiorari* under Rule 65 of the Rules of Court — the sole mode of review of NLRC decisions, as the law and jurisprudence stand now.<sup>[38]</sup> Being so, its jurisdiction was confined to errors of jurisdiction committed by the NLRC, whose decision might only be set aside if it committed grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>[39]</sup>

Hence, it was incumbent upon Sio, the party who sought the review of the NLRC decision, to establish that the NLRC acted capriciously and whimsically in order that the extraordinary writ of certiorari would lie. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically.<sup>[40]</sup>

These limitations in the CA's review powers greatly affect the scope of the Court's review in the present Rule 45 Petition. In *Montoya v. Transmed Manila Corp.*,<sup>[41]</sup> the Court laid down the basic approach in undertaking Rule 45 petitions of Rule 65 decisions of the CA and emphasized the need to examine the CA decision from the context of whether it correctly determined the presence or absence of grave abuse of discretion by the NLRC, as opposed to whether the NLRC decision was correct on the case's merits, thus:

x x x In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. **In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on**