

## SECOND DIVISION

[ G.R. No. 212520, July 03, 2019 ]

**COCA-COLA BOTTLERS PHILIPPINES, INC., PETITIONER, VS. ANTONIO P. MAGNO, JR. AND MELCHOR L. OCAMPO, JR., RESPONDENTS.**

### RESOLUTION

**CARPIO, J.:**

#### The Case

G.R. No. 212520 is a petition<sup>[1]</sup> assailing the Court of Appeals (CA) Resolutions in CA-G.R. SP No. 122684 promulgated on 4 February 2014<sup>[2]</sup> and on 9 May 2014.<sup>[3]</sup> This case involves the same parties in G.R. No. 202141 (*Ocampo and Magno v. Coca-Cola Bottlers Phils., Inc., et al.*), which was denied in a Resolution dated 30 July 2012.

#### Antecedent Facts

In its Decision<sup>[4]</sup> dated 27 July 2010, the National Labor Relations Commission (NLRC) stated the facts of the case as follows:

Complainant-[a]ppellee [Melchor L. Ocampo, Jr., or] Ocampo alleged that he was hired by [Coca-Cola] on 1 May 1988. During the course of his employment he was rewarded with promotions and incentives until he reached the position of District Sales Supervisor with a basic monthly salary of P45,900.00, cellular phone subsidy, gas allowance and incentive pay.

Complainant-[a]ppellee [Antonio P. Magno, Jr., or] Magno was employed on 15 December 1988. His last position was as Territory Sales Manager with a basic monthly pay of P76,410.00, cellphone subsidy, gas allowance and other incentive pay.

In January 2007, complainants-appellees were meted a suspension for one month because of the charge that two (2) hauler trucks belonging to one Tirso B. Tablang (Tablang), a dealer of [Coca-Cola's] products, and whose operation is under Ocampo's district and Magno's territory, were found to be distributing soon-to-expire products in Manila, which is outside of his dealership area.

Complainants-[a]ppellees claimed that the said incident happened at a time when respondent company's products were not doing well in the market and this decrease in the sales would result to the expiration of the products stored in the warehouses. The expiration of the products on [sic] storage would in turn translate to financial losses to respondent company.

On 29 April 2008, the services of complainant-appellee Ocampo was terminated. On 14 May 2008, complainants-appellees filed a complaint for illegal dismissal of Ocampo. Furthermore, they prayed for an order of reinstatement and payment of backwages and other incentives, damages and attorney's fees.

On 18 June 2008, complainants-appellees filed a supplemental position paper alleging that Antonio Magno was likewise terminated from work on 29 May 2008 when he was not allowed to enter company premises for no reason at all.

Upon the other hand and by way of controversion, respondents-appellants alleged that the local sales market of the company is geographically divided into areas, territories and districts. This scheme is meant to protect each dealer's area and prevent unfair dealings. Thus, the company has a "no encroachment policy" for strict compliance by sales personnel, the violation of which is a ground for the termination of dealership agreement and/or the services of employees involved (Annex "I", pp. 107-109, Records).

Complainants-[a]ppellees were assigned in the Nueva Ecija and Aurora province areas. The head of this area is individual respondent Jaime Ronquillo. Complainant-[a]ppellee Magno is the Territory Sales Manager for Cabanatuan City and San Leonardo, Nueva Ecija and Baliuag, Bulacan, who directly reported to Ronquillo. In turn, complainant-appellant [sic] Ocampo was a District Sales Supervisor assigned to Aurora District who reported to Magno.

Respondents-[a]ppellants claimed that Magno and Ocampo who were charged with engaging in fictitious sales transactions and violation of the "no encroachment" policy; were placed on preventive suspension and dismissed from service in accordance with the provisions of Sections 10 and 12, Rule 005-85 of the CCBPI Rules in relation to Article 282 of the Labor Code on loss of trust and confidence.

Respondents-[a]ppellants related that complainants-appellees committed the infractions in connivance with the company's dealer-partner in Casiguran and Dipaculao, Aurora province, Tirso B. Tablang (Tablang). Tablang was under complainant-appellee Ocampo's district and he sourced his products from Cabanatuan Sales Office, which was covered by Magno's territory.

Sometime in December 2006, respondent company received reports that some products purportedly hauled from Cabanatuan Sales Office under the name and by authority of Tablang were not actually delivered to Casiguran or Dipaculao but were diverted to other outlets in Metro Manila or other district in Nueva Ecija. The products were hauled using Tablang's delivery trucks/haulers. The company conducted a surveillance of Tablang's trucks and on 28 December 2006 they were able to track down REH 597. Nine hundred cases of soft drinks were pulled out from Cabanatuan Sales Office, but instead of proceeding to Casiguran or Dipaculao, Aurora, the driver proceeded to Manila. The surveillance team trailed the truck up to Tambo, Parañaque and saw the products being unloaded from said truck.

When Tablang was confronted, he stated that complainants-appellants [sic] Magno and Ocampo used his facilities to buy company products at discounted rates, only to dispose them outside their territory. Ocampo convinced him to issue a signed blank authorization form so that the former can pull out stocks from the Cabanatuan Sales Office. These stocks were included as part of Tablang's account with the respondent company. As payment for the stocks, complainants-appellees [sic] would issue checks to Tablang to cover the amount corresponding to the stocks that they pulled out.

After further review of the records, respondents-appellants served a Notice to Explain and Preventive Suspension to Magno on 19 January 2007 and to Ocampo on 24 January 2007 (Annexes "15" and "16," pp. 142-143, Records).

In his letter of explanation, Magno argued that the company did not incur any losses, instead he prevented the same when he was able to sell and dispose of the soon-to-expire products stored in the warehouse.

Ocampo, on the other hand, admitted that the plan to dispose of the stocks in the manner that they did was a strategy devised by Magno in order to protect the interest of the company.

However, they did not attend the administrative hearings scheduled on 9 and 12 February 2007. The hearing was again set for 13 February 2007 for Ocampo and 19 February 2007 for Magno. Still, complainants-appellee [sic] failed to appear. The meeting was again reset to 22 February 2007, but despite notice, they did not attend. Thus, the hearing was conducted in their absence and the witnesses present thereat were questioned and were asked to submit their verified statements.

After evaluation of the records and the statements of both parties, management came to a decision that Ocampo was guilty as charged and decided to terminate his services on 29 April 2008 through a Notice of Termination dated 23 April 2008. In view of Magno's position in the company and his long years of service, he was given a Fourth Notice to Explain which was also unheeded. Thus he was given his termination papers on 29 May 2008.<sup>[5]</sup>

Antonio Magno, Jr. (Magno) and Melchor Ocampo, Jr. (Ocampo) filed a complaint for illegal suspension and money claims before the Labor Arbiter (LA) on 7 March 2008.<sup>[6]</sup> On 5 June 2008, the complaint was amended to include a prayer for reinstatement, backwages, damages and attorney's fees and payment of their salaries corresponding to their suspension.<sup>[7]</sup>

Coca-Cola Bottlers Philippines, Inc. (Coca-Cola), on the other hand, claims that Magno and Ocampo were legally dismissed for cause. Magno and Ocampo allegedly violated Sections 10 and 12, Rule 005-85 of Coca-Cola's Code of Disciplinary Rules and Regulations (the CCBPI Rules), which provided penalties for fictitious sales transactions and analogous cases.<sup>[8]</sup>

#### **The Ruling of the Labor Arbiter**

On **30 October 2008**, the LA, in NLRC Case No. RAB-III-03-13268-08,<sup>[9]</sup> declared Coca-Cola guilty of illegally suspending and dismissing Magno and Ocampo. The LA ordered payment of salaries and benefits for the one month suspension. The LA also ordered reinstatement, as well as payment to both Magno and Ocampo of their respective backwages, transportation benefits, cellphone benefits, incremental increase, and annual incentive pay. The LA also awarded payment of moral damages, exemplary damages, and attorney's fees. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered declaring respondents guilty of illegally suspending and dismissing complainants.

Concomitantly, they are hereby ordered to pay complainants their salaries and other benefits during the time of their suspension as follows:

1. for complainant Magno:
  - a. Salary for one month suspension in the amount of P76,100.00;
  - b. Transportation benefits for one month in the amount of P15,000.00;
2. for complainant Ocampo:
  - a. Salary for one month suspension in the amount of P45,900.00;
  - b. Transportation benefits for one month in the amount of P10,000.00.

Further considering that complainants' dismissals are illegal, respondents are also hereby ordered to reinstate complainants to their former positions under the same terms and conditions prevailing during the time of their employment without loss of seniority rights and privileges. The reinstatement is immediately executory and respondent Coca-Cola is directed to submit a report of compliance thereof within ten (10) calendar days from receipt of this decision pursuant to the provisions of paragraph 2, Section 14, Rule V of the 2005 NLRC Revised Rules of Procedure.

Respondents are further ordered to pay herein complainants the following:

3. for complainant Magno:
  - a. Backwages from May 29, 2008 up to the date of this Decision computed in the amount of P380,500.00;
  - b. Transportation benefits from the time it was withheld from them commencing [i]n February 2007 up to the time of this Decision = 21 months x P15,000 or in the total amount of P315,000.00;
  - c. Cellphone benefits in the amount of P17,500.00;
  - d. Incremental increase for 2008 equivalent to P3,000 a month for 10 months = P30,000.00;
  - e. Annual Incentive Pay which he earned for his accomplishments in 2007 in the amount of P300,000.00;
4. for complainant Ocampo:

- a. Backwages from April 29, 2008 up to the date of this Decision computed in the amount of P275,400.00;
- b. Transportation benefits from the time it was withheld from them commencing [i]n February 2007 up to the time of this Decision = 21 months x P10,000 or in the total amount of P210,000.00;
- c. Cellphone benefits in the amount of P25,000.00;
- d. Incremental increase for 2008 equivalent to P4,200 a month for 10 months = P42,000.00;
- e. Variable Incentive Pay from January 2007 up to the date of this Decision in the amount of P550,000.00.

For having suffered besmirched reputation, sleepless nights and serious anxiety, not to mention the presence of bad faith, respondents are also ordered to pay complainants Magno and Ocampo, moral damages in the amount of P3,000,000.00 and P2,000,000.00, respectively.

In order to deter anyone similarly inclined to commit such illegal and malevolent acts, respondents are likewise ordered to pay exemplary damages in the amount of P2,000,000.00 for each complainant.

It is also apparent that complainants hired the services of a counsel to litigate their cause, respondents are also hereby ordered to pay attorney's fees equivalent to ten percent (10%) of the total award.

Finally, respondents are hereby ordered to expunge from their personnel records, all violations attributed to herein complainants.

SO ORDERED.<sup>[10]</sup>

On 5 December 2008, Coca-Cola filed a Memorandum of Appeal<sup>[11]</sup> with the NLRC, which was docketed as NLRC LAC No. 01-000034-09. Coca-Cola prayed that the NLRC declare valid Magno's and Ocampo's preventive suspension and dismissal from service.

During the pendency of the appeal in the NLRC, Magno and Ocampo filed motions for the issuance of a partial writ of execution before the LA on the following dates: 4 December 2008,<sup>[12]</sup> 22 January 2009,<sup>[13]</sup> 3 August 2009,<sup>[14]</sup> 13 October 2009,<sup>[15]</sup> 15 December 2009,<sup>[16]</sup> and 2 March 2010.<sup>[17]</sup>

Coca-Cola filed the corresponding oppositions to these motions on the following dates: 5 January 2009,<sup>[18]</sup> 9 February 2009,<sup>[19]</sup> 20 August 2009,<sup>[20]</sup> 5 November 2009,<sup>[21]</sup> and 7 January 2010.<sup>[22]</sup> Coca-Cola also filed an opposition to Magno and Ocampo's 1 March 2010 motion for the issuance of a partial writ of execution. This opposition, however, is not in the records and was only mentioned in the LA's Order dated 26 March 2010.<sup>[23]</sup>

The LA granted Magno and Ocampo's motions for partial writ of execution in Orders released on the following dates: 9 January 2009,<sup>[24]</sup> 18 February 2009,<sup>[25]</sup> 2 September 2009,<sup>[26]</sup> 15 January 2010,<sup>[27]</sup> and 26 March 2010.<sup>[28]</sup> The LA denied Coca-Cola's Opposition of 5 November 2009 in an Order released on 20 November 2009.<sup>[29]</sup> The LA also released on 20 November 2009 a separate Order<sup>[30]</sup> directing the Branch Manager of Metrobank, San Fernando City branch to release, in separate checks, the amount of P351,269.00 representing Magno's and Ocampo's reinstatement salaries and benefits for August and September 2009, and the amount of P4,790.00 representing execution and deposit fees.

Coca-Cola filed the corresponding memoranda of appeal before the NLRC on the following dates: 5 December 2008,<sup>[31]</sup> 2 February 2009,<sup>[32]</sup> 2 March 2009,<sup>[33]</sup> 24 November 2009,<sup>[34]</sup> 28 January 2010,<sup>[35]</sup> and 31 March 2010.<sup>[36]</sup>

On **26 March 2010**, the LA ordered Coca-Cola to reinstate Magno and Ocampo to their former positions without loss of seniority rights and privileges, and specified the amounts that they should be paid. The dispositive portion of the Order reads:

WHEREFORE, let a Partial/Alias Writ of Execution be issued directing the respondents to reinstate the complainants to their former positions without loss of seniority rights and privileges and for the respondents to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave credits as follows:

	<b>Basic Pay</b>	<b>SL&amp;VL</b>	<b>TOTAL</b>
Antonio Magno, Jr.	P228,300.00	P163,721.00	P392,021.00
Melchor Ocampo, Jr.	137,700.00	98,749.00	236,449.00
<b>TOTAL</b>			<b>P628,470.00</b>

SO ORDERED.<sup>[37]</sup>

There were six sets of these exchanges (motion for issuance of partial writ of execution, opposition, order granting the writ, memorandum of appeal) from December 2008 to March 2010. The amounts granted by the LA to Magno from 20 October 2008 to 26 March 2010 are summarized as follows:

	30 October 2008 <sup>[38]</sup>	9 January 2009 <sup>[39]</sup>	18 February 2009 <sup>[40]</sup>	1 September 2009 <sup>[41]</sup>	20 November 2009 <sup>[42]</sup>	15 January 2010 <sup>[43]</sup>	26 March 2010 <sup>[44]</sup>
<b>Salary for one-month suspension</b>	P76,100	-	-	-	-	-	-
<b>Transportation benefits for one month</b>	P15,000	-	-	-	-	-	-
<b>Backwages</b>	P380,500	-	-	P 152,200	P 152,200	P 152,200	P 228,300
	From 29 May 2008 up to date of Decision			For June and July 2009	For August and September 2009	For October and November 2009	For December 2009 to February 2010
<b>Transportation</b>	P315,000	-	-	P57,000	P57,000	-	-

<b>benefits</b>	(P15,000 x 21 months) From February 2007 up to date of decision			For June and July 2009	For August and September 2009		
<b>Cellphone benefits</b>	P17, 500	-	-	P7,000	P7,000	-	-
<b>Incremental increase/Salary increase</b>	P30,000 (P3,000 x 10 months)	-	-	P6,000	P6,000	-	-
<b>Annual incentive pay</b>	P300,000 For accomplishments in 2007)	-	-	-	-	-	-
<b>Medicine</b>	-	-	-	P5,326	P1,030	-	-
<b>13<sup>th</sup> Month Pay</b>	-	-	-	-	-	P76,100	-
<b>Sick Leave and Vacation Leave</b>	-	-	-	-	-	-	P163,721
<b>Statement</b>	-	"[T]o effect the reinstatement of [Magno] to [his] former position without loss of seniority rights and privileges, either physically or in the payroll, at the option of [Coca-Cola]."	"[T]o collect the reinstatement wages of [Magno] x x x."	"[T]o collect from [Coca-Cola] the total amount of x x x (P356,337.00) representing reinstatement wages."	"[T]o immediately release the amount of x x x P351,269.00 representing [Magno's] reinstatement salaris/wages and benefits for the months of August and September 2009 x x x."	"[T]o reinstate [Magno] to [his] former position x x x and for [Coca-Cola] to PAY [Magno] [his] basic wages for the months of October 2009 and November 2009 and 13 <sup>th</sup> month pay for the year 2009 x x x."	"[T]o reinstate [Magno] to [his] former position without loss of seniority rights and privileges and for [Coca-Cola] to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave benefits x x x."

The amounts granted by the LA to Ocampo from 20 October 2008 to 26 March 2010 are summarized as follows:

	30 Oct 2008 <sup>[45]</sup>	9 Jan 2009 <sup>[46]</sup>	18 Feb 2009 <sup>[47]</sup>	1 Sept 2009 <sup>[48]</sup>	20 Nov 2009 <sup>[49]</sup>	15 Jan 2010 <sup>[50]</sup>	26 Mar 2010 <sup>[51]</sup>
<b>Salary for one-month suspension</b>	P45,900	-	-	-	-	-	-
<b>Transportation benefits for one month</b>	P10,000	-	-	-	-	-	-
<b>Backwages</b>	P275,400 From 29 April 2008 up to date of Decision	-	-	P91,800 For June and July 2009	P91,800 For August and September 2009	P91,800 For October and November 2009	P137,700 For December 2009 to February 2010
<b>Transportation benefits</b>	P210,000 P10,000 x 21 months) From February 2007 up to date of Decision	-	-	P20,000 For June and July 2009	P20,000 For August and September 2009	-	-
<b>Cellphone benefits</b>	P25,000	-	-	P5,000	P5,000	-	-
<b>Merit</b>	P42,000	-	-	P8,400	P8,400	-	-

<b>increase/Salary increase</b>	(P4,200 x 10 months)						
<b>Variable incentive pay</b>	P550,000  (From January 2007 up to date of Decision)	-	-	-	-	-	-
<b>Medicine</b>	-	-	-	P3,611	P2,839	-	-
<b>13<sup>th</sup> Month Pay</b>	-	-	-	-	-	P48,900	-
<b>Sick Leave and Vacation Leave</b>	-	-	-	-	-	-	P98,749
<b>Statement</b>	-	"[T]o effect the reinstatement of [Ocampo] to [his] former position without loss of seniority rights and privileges, either physically or in the payroll, at the option of [Coca-Cola]."	"[T]o collect the wages of [Ocampo] x x x."	"[T]o collect from [Coca-Cola] the total amount of x x x (P356,337.00) representing reinstatement wages."	"[T]o immediately release the amount of x x x (P351,269.00) representing [Ocampo's] reinstatement salaries/wages and benefits for the months of August and September 2009 x x x."	"[T]o reinstate [Ocampo] to [his] former position and for [Coca-Cola] to PAY [his] basic reinstatement wages for October 2009 and November 2009 and 13 <sup>th</sup> month pay for the year 2009 x x x."	"[T]o reinstate [Ocampo] to [his] former position without loss of seniority rights and privileges for [Coca-Cola] to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave benefits x x x."

**The Ruling of the NLRC**

On **27 July 2010**, the NLRC promulgated a Decision which resolved Coca-Cola's appeal from the LA's Decision dated 30 October 2008. **The NLRC ruled that Magno and Ocampo were legally dismissed, but their suspension was illegal.**

The 27 July 2010 NLRC Decision adjusted the monetary awards granted by the LA to Magno and Ocampo. In contrast to the 30 October 2008 Decision, where the LA awarded Magno and Ocampo backwages, transportation benefits, cellphone benefits, incremental increase, annual incentive pay, moral damages, exemplary damages, and attorney's fees, the 27 July 2010 Decision of the NLRC limited the monetary awards to payment of salary for one month suspension and transportation benefits. The 27 July 2010 Decision also denied Magno's and Ocampo's claims for moral and exemplary damages and attorney's fees.

The dispositive portion of the NLRC's 27 July 2010 Decision reads

WHEREFORE, premises considered, judgment is hereby rendered declaring that complainants-appellees have been legally dismissed. However, their suspension is declared illegal. Respondent-Appellant Coca-Cola Bottlers Philippines, Inc. is hereby ordered to pay their salaries and benefits during the period of their suspension, in the following grounds [sic]:

1. for Antonio P. Magno:
  - a. Salary for one month suspension of P76,100.00
  - b. Transportation benefits of P15,000.00
2. for Melchor L. Ocampo:
  - a. Salary for one month suspension of P45,900.00
  - b. Transportation benefits of P10,000.00

The claims for moral and exemplary damages as well as attorney's fees are denied for lack of merit.

SO ORDERED.<sup>[52]</sup>

Both parties filed their respective motions for reconsideration, and the NLRC denied both motions for lack of merit in a Resolution promulgated on **23 September 2010**.<sup>[53]</sup>

Magno and Ocampo filed a petition before the CA dated 8 December 2010 which questioned the NLRC's 27 July 2010 Decision, which ruled that their suspension was illegal but their dismissal was legal, and 23 September 2010 Resolution, which denied their motion for reconsideration of the 27 July 2010 Decision. **The CA petition was docketed as CA-G.R. SP No. 117180.**

While CA-G.R. SP No. 117180 was pending, the NLRC promulgated a Resolution on **25 April 2011**.<sup>[54]</sup> The NLRC dismissed Coca-