

THIRD DIVISION

[G.R. No. 212003, February 28, 2018]

**PHILIPPINE SPAN ASIA CARRIERS CORPORATION (FORMERLY
SULPICIO LINES, INC.), PETITIONER, V. HEIDI PELAYO,
RESPONDENT.**

D E C I S I O N

LEONEN, J.:

"Not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal."^[1] It is an employer's right to investigate acts of wrongdoing by employees. Employees involved in such investigations cannot ipso facto claim that employers are out to get them. Their involvement in investigations will naturally entail some inconvenience, stress, and difficulty. However, even if they might be burdened - and, in some cases, rather heavily so - it does not necessarily mean that an employer has embarked on their constructive dismissal.

This resolves a Petition for Review on Certiorari^[2] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed Court of Appeals July 4, 2013 Decision^[3] and February 12, 2014 Resolution^[4] in CA-G.R. SP No. 04622 be reversed and set aside.

The assailed Court of Appeals July 4, 2013 Decision found grave abuse of discretion on the part of the National Labor Relations Commission in issuing its May 27, 2011 Decision^[5] and August 31, 2011 Decision^[6] holding that respondent Heidi Pelayo (Pelayo) was not constructively dismissed. The assailed Court of Appeals February 12, 2014 Resolution denied the Motion for Reconsideration^[7] of petitioner Philippine Span Asia Carriers Corporation, then Sulpicio Lines, Inc. (Sulpicio Lines).

Pelayo was employed by Sulpicio Lines as an accounting clerk at its Davao City branch office. As accounting clerk, her main duties were "to receive statements and billings for processing of payments, prepare vouchers and checks for the approval and signature of the branch manager, and release checks for payment."^[8]

Sulpicio Lines uncovered several anomalous transactions in its Davao City branch office. Most notably, a check issued to a certain "J. Josol"^[9] had been altered from its original amount of P20,804.58 to P820,804.58. The signatories to the check were branch manager Tirso Tan (Tan) and cashier Fely Sobiaco (Sobiaco).^[10]

There were also apparent double disbursements. In the first double disbursement, two (2) checks amounting to P5,312.15 each were issued for a single P5,312.15 transaction with Davao United Educational Supplies. This transaction was covered by official receipt no. 16527, in the amount of P5,312.15 and dated January 12, 2008. The first check, Philippine Trust Company (PhilTrust Bank) check no. 2043921, was

issued on December 15, 2007. This was covered by voucher no. 227275. The second check, PhilTrust Bank check no. 2044116, was issued on January 19, 2008 and was covered by voucher no. 227909.^[11]

There was another double disbursement for a single transaction. Two (2) checks for P20,804.58 each in favor of Everstrong Enterprises were covered by official receipt no. 5129, dated January 25, 2008. The first check, PhilTrust Bank check no. 2044156, was dated January 26, 2008 and covered by voucher no. 228034. The second check, PhilTrust Bank check no. 2044244, was dated February 9, 2008 and covered by voucher no. 228296.^[12]

Another apparent anomaly was a discrepancy in the amounts reflected in what should have been a voucher and a check corresponding to each other and covering the same transaction with ARR Vulcanizing. Voucher no. 232550 dated October 30, 2008 indicated only P17,052.00, but the amount disbursed through check no. 2051313 amounted to P29,306.00.^[13]

Sulpicio Lines' Cebu-based management team went to Davao to investigate from March 3 to 5, 2010. Pelayo was interviewed by members of the management team as "she was the one who personally prepared the cash vouchers and checks for approval by Tan and Sobiaco."^[14]

The management team was unable to complete its investigation by March 5, 2010. Thus, a follow-up investigation had to be conducted. On March 8, 2010, Pelayo was asked to come to Sulpicio Lines' Cebu main office for another interview.^[15] Sulpicio Lines shouldered all the expenses arising from Pelayo's trip.^[16]

In the midst of a panel interview, Pelayo walked out.^[17] She later claimed that she was being coerced to admit complicity with Tan and Sobiaco.^[18] Pelayo then returned to Davao City,^[19] where she was admitted to a hospital "because of depression and a nervous breakdown."^[20] She eventually filed for leave of absence and ultimately stopped reporting for work.^[21]

Following an initial phone call asking her to return to Cebu, Sulpicio Lines served on Pelayo a memorandum dated March 15, 2010,^[22] requiring her to submit a written explanation concerning "double disbursements, payments of ghost purchases and issuances of checks with amounts bigger than what [were] stated in the vouchers."^[23] Sulpicio Lines also placed Pelayo on preventive suspension for 30 days.^[24] It stated:

Among your duties is to receive statements and billings for processing of payments, prepare vouchers and checks for the signature of the approving authority. In the preparation of the vouchers and the checks, you also are required to check and to make sure that the supporting documents are in order. Thus, the double payments and other payments could not have been perpetrat[ed] without your cooperation and/or neglect of duty/gross negligence.

You are hereby required to submit within three (3) days from receipt of this letter a written explanation why no disciplinary action [should] be

imposed against you for dishonesty and/or neglect of duty or gross negligence.^[25]

Sulpicio Lines also sought the assistance of the National Bureau of Investigation, which asked Pelayo to appear before it on March 19, 2010.^[26]

Instead of responding to Sulpicio Lines' memorandum or appearing before the National Bureau of Investigation, Pelayo filed a Complaint against Sulpicio Lines charging it with constructive dismissal.^[27]

Sulpicio Lines denied liability asserting that Pelayo was merely asked to come to Cebu "to shed light on the discovered anomalies"^[28] and was "only asked to cooperate in prosecuting Tan and Sobiaco."^[29] It also decried Pelayo's seeming attempt at "distan[c]ing" herself from the ongoing investigation of financial anomalies discovered."^[30]

In her September 17, 2010 Decision,^[31] Labor Arbiter Merceditas C. Larida (Labor Arbiter Larida) held that Sulpicio Lines constructively dismissed Pelayo. She faulted Sulpicio Lines for harassing Pelayo when her participation in the uncovered anomalies was "far-fetched."^[32] Labor Arbiter Larida relied mainly on the affidavit of Alex Te (Te),^[33] an employee of Sulpicio Lines assigned at the Accounting Department of its Cebu City main office. Te's affidavit was attached to the Secretary's Certificate,^[34] attesting to Sulpicio Lines' Board Resolution authorizing Te to act in its behalf in prosecuting Tan and Sobiaco. This affidavit detailed the duties of Tan and Sobiaco, as branch manager and cashier, respectively, and laid out the bases for their prosecution.^[35] Labor Arbiter Larida noted that the affidavit's silence on how Pelayo could have been involved demonstrated that it was unjust to suspect her of wrongdoing.^[36]

In its May 27, 2011 Decision,^[37] the National Labor Relations Commission reversed Labor Arbiter Larida's Decision. It explained that the matter of disciplining employees was a management prerogative and that complainant's involvement in the investigation did not necessarily amount to harassment.^[38] The dispositive portion of this Decision read:

WHEREFORE, foregoing premises considered, the appeal is GRANTED and the appealed decision is SET ASIDE and VACATED. In lieu thereof, a new judgment is rendered DISMISSING the above-entitled case for lack of merit.

SO ORDERED.^[39]

In its assailed July 4, 2013 Decision, the Court of Appeals found grave abuse of discretion on the part of the National Labor Relations Commission in reversing Labor Arbiter Larida's Decision.^[40]

Following the denial of its Motion for Reconsideration,^[41] Sulpicio Lines filed the present Petition.

For resolution is the issue of whether or not the Court of Appeals erred in finding grave abuse of discretion on the part of the National Labor Relations Commission in

ruling that respondent Heidi Pelayo's involvement in the investigation conducted by petitioner did not amount to constructive dismissal.

The Court of Appeals must be reversed.

An employer who conducts investigations following the discovery of misdeeds by its employees is not being abusive when it seeks information from an employee involved in the workflow which occasioned the misdeed. Basic diligence impels an employer to cover all bases and inquire from employees who, by their inclusion in that workflow, may have participated in the misdeed or may have information that can lead to the perpetrator's identification and the employer's adoption of appropriate responsive measures. An employee's involvement in such an investigation will naturally entail difficulty. This difficulty does not mean that the employer is creating an inhospitable employment atmosphere so as to ease out the employee involved in the investigation.

I

While adopted with a view "to give maximum aid and protection to labor,"^[42] labor laws are not to be applied in a manner that undermines valid exercise of management prerogative.

Indeed, basic is the recognition that even as our laws on labor and social justice impel a "preferential view in favor of labor,"

[e]xcept as limited by special laws, an employer is free to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, tools to be used, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay-off of workers and the *discipline, dismissal and recall of work*.^[43] (Emphasis supplied).

The validity of management prerogative in the discipline of employees was sustained by this Court in *Philippine Airlines v. National Labor Relations Commission*,^[44] "In general, management has the prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations."^[45]

The rationale for this was explained in *Rural Bank of Cantilan, Inc. v. Julve*:^[46]

While the law imposes many obligations upon the employer, nonetheless, it also protects the employer's right to expect from its employees not only good performance, adequate work, and diligence, but also good conduct and loyalty. In fact, the Labor Code does not excuse employees from complying with valid company policies and reasonable regulations for their governance and guidance.^[47]

Accordingly, in *San Miguel Corporation v. National Labor Relations Commission*:^[48]

An employer has the prerogative to prescribe reasonable rules and regulations necessary for the proper conduct of its business, to provide certain disciplinary measures in order to implement said rules and to

assure that the same would be complied with. An employer enjoys a wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees.

It is axiomatic that appropriate disciplinary sanction is within the purview of management imposition. Thus, in the implementation of its rules and policies, the employer has the choice to do so strictly or not, since this is inherent in its right to control and manage its business effectively.^[49]

II

Disciplining employees does not only entail the demarcation of permissible and impermissible conduct through company rules and regulations, and the imposition of appropriate sanctions. It also involves intervening mechanisms "to assure that [employers' rules] would be complied with."^[50] These mechanisms include the conduct of investigations to address employee wrongdoing.

While due process, both substantive and procedural, is imperative in the discipline of employees, our laws do not go so far as to mandate the minutiae of how employers must actually investigate employees' wrongdoings. Employers are free to adopt different mechanisms such as interviews, written statements, or probes by specially designated panels of officers.

In the case of termination of employment for offenses and misdeeds by employees, i.e., for just causes under Article 282 of the Labor Code,^[51] employers are required to adhere to the so-called "two-notice rule."^[52] *King of Kings Transport v. Mamac*^[53] outlined what "should be considered in terminating the services of employees"^[54] :

- (1) The first written notice to be served on the employees should contain the specific causes or grounds for termination against them, and a directive that the employees are given the opportunity to submit their written explanation within a reasonable period. "Reasonable opportunity" under the Omnibus Rules means every kind of assistance that management must accord to the employees to enable them to prepare adequately for their defense. This should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employees an opportunity to study the accusation against them, consult a union official or lawyer, gather data and evidence, and decide on the defenses they will raise against the complaint. Moreover, in order to enable the employees to intelligently prepare their explanation and defenses, the notice should contain a detailed narration of the facts and circumstances that will serve as basis for the charge against the employees. A general description of the charge will not suffice. Lastly, the notice should specifically mention which company rules, if any, are violated and/or which among the grounds under Art. 282 is being charged against the employees.
- (2) After serving the first notice, the employers should schedule and conduct a hearing or conference wherein the employees