

FIRST DIVISION

[G.R. No. 234186, November 21, 2018]

UNION SCHOOL INTERNATIONAL REPRESENTED BY PASTOR ABRAHAM CHO [SCHOOL SUPERINTENDENT], JAIME NABUA [BOARD PRESIDENT], AND JENNIFER MANDAPAT [SCHOOL HEAD], PETITIONERS, V. CHARLEY JANE DAGDAG, RESPONDENT.

DECISION

TIJAM, J.:

The Court resolves the petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court filed by Union School International (Union School), represented by School Superintendent Pastor Abraham Cho (Cho), Board President Jaime Nabua (Nabua), and Jennifer Mandapat (Mandapat), (collectively referred to as petitioners), assailing the Decision^[2] dated November 10, 2016 and the Resolution^[3] dated May 17, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 133482, finding that Union School illegally dismissed respondent Charley Jane Dagdag (Dagdag) from her employment.

Facts of the Case

Dagdag was employed as an Elementary School Teacher on a probationary status by Union School from July 16, 2012 to May 31, 2013. During her employment, or on November 23, 2012, she found out that she was eight weeks and five days pregnant. Soon thereafter, Dagdag informed Mandapat of her pregnancy and that the father of the child was marrying another woman. As Dagdag was single, the matter of being charged with gross immorality and Dagdag's resignation was discussed.^[4]

On December 3, 2012, Dagdag did not report for work without informing the school earlier of her absence. She was then suspended for four days for abandonment of work. In addition, a suspension of one day was likewise imposed as this was her second offense of absence without official leave.^[5]

On December 12, 2012, Dagdag received a copy of a notice addressed to the members of the Grievance Committee to attend to a Teacher's Disciplinary Committee on December 14, 2012 regarding the disciplinary action against her for gross immorality. The notice indicated that she was advised to nominate her representative from the current full-time staff of the school. For her failure to attend the same, however, the hearing was rescheduled on December 17, 2012.^[6]

During the hearing, Dagdag acknowledged the contents of the school's Faculty and Staff Handbook, which includes the offense on gross immorality and the Professional Code of Ethics for Teachers. She was apprised of the possible consequences if she will be dismissed from service as it might affect her next job application as compared to resigning which, petitioners thought, was a better option. Dagdag then

agreed to resign. The Minutes of the hearing also stated that she consulted her mother and relatives and that she was accepting dismissal as a disciplinary action but she will wait for the decision of the school.^[7]

On the same date, Dagdag filed a complaint against petitioners for illegal dismissal, non-payment of salaries and benefits, moral and exemplary damages, and attorney's fees.^[8]

Meanwhile, prior to the scheduled mandatory conference, Dagdag received a Memorandum dated December 19, 2012 from petitioners regarding her alleged violations discussed during the grievance committee meeting. Dagdag was required to submit her explanation on why she should not be dismissed. For her failure to submit the required written explanation, however, the grievance committee recommended her termination from the service.^[9]

For its part, Union School denied the accusations of Dagdag and maintained that they did not suspend, transfer, demote, or prevent Dagdag from performing her work as a result of her pregnancy out of wedlock.^[10]

On June 7, 2013, the Labor Arbiter (LA) issued its Decision,^[11] wherein it found that Dagdag was illegally dismissed from employment. The LA maintained that Union School committed acts of persecution, discrimination, insensitivity and disdain when Dagdag was coerced into resigning from her job after having admitted to Mandapat that she was pregnant out of wedlock with no intentions of getting married to the father of her child as he had already married another woman. The *fallo* of the Decision, reads:

WHEREFORE, premises duly considered, judgment is hereby rendered finding [Dagdag] constructively dismissed.

[Union School] and [Mandapat] shall pay [Dagdag] jointly and severally the following:

- a. Backwages inclusive of all benefits and allowances amounting to P59,627.50;
- b. Moral damages amounting to P50,000.00;
- c. Exemplary damages amounting [to] P30,000.00; and
- d. Attorney's fees amounting to P5,962.75.

All other claims are dismissed for lack of basis.

SO ORDERED.^[12]

On appeal, the National Labor Relations Commission (NLRC) issued its Decision^[13] dated September 13, 2013, wherein it vacated the decision of the LA and dismissed the complaint for illegal dismissal and money claims of Dagdag for lack of merit.

In reversing the Decision of the LA, the NLRC held that there was no evidence that Dagdag was ever subjected to persecution or contempt after she reported her pregnancy; hence, she failed to prove by substantial evidence that she was constructively dismissed. The dispositive portion of the Decision, reads:

WHEREFORE, the appeal is hereby declared with merit. The assailed decision is hereby **VACATED** and the case dismissed for lack of merit.

[Union School] however is hereby ordered to pay [Dagdag's] salary corresponding to the period December 1-17, 2012 and 13th month pay in the amount of P10,370.00.

SO ORDERED.^[14]

Aggrieved, the matter was elevated to the CA *via* a Petition for *Certiorari* under Rule 65.

In its Decision^[15] dated November 10, 2016, the CA annulled and set aside the ruling of the NLRC. The CA maintained that Dagdag was illegally dismissed from service as the minutes of the grievance meeting disclosed that she was only given two options — to resign or to be dismissed from service, upon Union School's finding of her pregnancy out of wedlock. As such, the CA held that it constituted a violation under Article 135^[16] of the Labor Code which prohibits the employer to discharge a woman employee on account of her pregnancy, to wit:

WHEREFORE, the petition is GRANTED. The decision of the [NLRC] dated September 30, 2013, and resolution dated October 30, 2013 in NLRC LAC No. 07-002158-13 (NLRC RAB CAR Case No. 12-0314-12) are ANNULLED and SET ASIDE.

[Union School] is declared to have committed illegal dismissal and is ORDERED to pay [Dagdag] the following: (a) separation pay in lieu of actual reinstatement equivalent to one (1) month pay for every year of service, with a fraction of at least six (6) months considered as one (1) whole year from the date of her dismissal on December 17, 2012 up to the finality of this decision; (b) full backwages from the time of her illegal dismissal up to the finality of this decision; and (c) attorney's fees equivalent to ten percent (10%) of the total monetary award. The monetary awards herein granted shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the finality of this decision until fully paid. The case is REMANDED to the [LA] for computation of [Dagdag's] monetary awards.

SO ORDERED.^[17]

A Motion for Reconsideration^[18] was filed by the petitioners but it was subsequently denied in a Resolution^[19] dated May 17, 2017.

Hence, the instant petition.

Ruling of the Court

The petition is without merit.

"[Constructive dismissal [is] a cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee."^[20] "The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his employment/position under the circumstances."^[21]

As aptly observed by the CA, Mandapat's act of suggesting that Dagdag should simply tender her resignation, as the school may impose harsher penalties, left Dagdag with no choice but to discontinue working for Union School. Also, the CA noted that although there was a conduct of grievance meeting, its outcome was already predetermined as petitioners were already resolute in their decision to terminate Dagdag's employment. This is evident by the fact that Dagdag was left with two choices—resignation or dismissal and threatening her with possible revocation of her teaching license.

Indeed, Dagdag agreed to resign because her actuation was perceived by petitioners as a ground for the revocation of her license as a teacher. Such license serves as a permit for Dagdag to secure an employment and find a means of livelihood.

Be that as it may, it appears that the grievance committee finally voted on Dagdag's dismissal, per minutes of the meeting.^[22] Said committee made a conclusion that Dagdag committed gross immorality in violation of the school rules and the Code of Ethics for Professional Teachers.^[23]

To determine whether a conduct is disgraceful or immoral, a consideration of the totality of the circumstances surrounding the conduct; and an assessment of the said circumstances *vis-a-vis* the prevailing norms of conduct, *i.e.*, what the society generally considers moral and respectable, are necessary.^[24]

In the case of *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*^[25] it is held that:

Jurisprudence has already set the standard of morality with which an act should be gauged — it is public and secular, not religious. Whether a conduct is considered disgraceful or immoral should be made in accordance with the prevailing norms of conduct, which, as stated in *Leus*, refer to those conducts which are proscribed because they are detrimental to conditions upon which depend the existence and progress of human society. The fact that a particular act does not conform to the traditional moral views of a certain sectarian institution is not sufficient reason to qualify such act as immoral unless it, likewise, does not conform to public and secular standards. More importantly, there must be substantial evidence to establish that premarital sexual relations and pregnancy out of wedlock is considered disgraceful or immoral.^[26] (Citations and emphasis in the original omitted)

The totality of evidence in this case does not justify the dismissal of Dagdag from her employment considering that there was no legal impediment to marry between Dagdag and the father of her child at the time of the conception. To reiterate the ruling of this Court in *Leus and Capin-Cadiz*, pregnancy of a school teacher out of wedlock is not a just cause for termination of an employment absent any showing that the pre-marital sexual relations and, consequently, pregnancy out of wedlock, are indeed considered disgraceful or immoral.

WHEREFORE, premises considered, the petition is **DENIED**. Accordingly, the Decision dated November 10, 2016 and the Resolution dated May 17, 2017 of the Court of Appeals in CA-G.R. SP No. 133482 are **AFFIRMED in toto**.

SO ORDERED.

Bersamin^[*] (Acting Chairperson), Del Castillo, and Gesmundo,^[**] JJ., concur. Jardeleza, J., see concurring opinion.

[*] Designated Acting Chairperson per Special Order No. 2606 dated October 10, 2018.

[**] Designated Additional Member per Special Order No. 2607 dated October 10, 2018.

[1] *Rollo*, pp. 3-16.

[2] Penned by Associate Justice Myra V. Garcia-Fernandez, concurred in by Associate Justices Mario V. Lopez and Elihu A. Ibañez; *id.* at 17-41.

[3] *Id.* at 54-55.

[4] *Id.* at 18-19.

[5] *Id.* at 19.

[6] *Id.* at 19-20.

[7] *Id.* at 20.

[8] *Id.*

[9] *Id.* at 20-21.

[10] *Id.* at 22.

[11] Rendered by Executive Labor Arbiter Vito C. Bose; *id.* at 59-65.

[12] *Id.* at 65.

[13] Penned by Commissioner Teresita D. Castillon-Lora, concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Erlinda T. Agus; *id.* at 67-86.

[14] *Id.* at 85-86.

[15] *Id.* at 17-41.

[16] Art. 135. ***Discrimination prohibited.*** - It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.

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[17] *Id.* at 40-41.

[18] *Id.* at 42-53.

[19] *Id.* at 54-55.