

THIRD DIVISION

[G.R. No. 209086, October 17, 2016]

ANGELITO R. PUBLICO, PETITIONER, VS. HOSPITAL MANAGERS, INC., ARCHDIOCESE OF MANILA - DOING BUSINESS UNDER THE TRADENAME AND STYLE OF "CARDINAL SANTOS MEDICAL CENTER", RESPONDENTS.

RESOLUTION

REYES, J.:

This resolves the petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court filed by Angelito R. Publico (Publico) to assail the Decision^[2] dated August 29, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 118222, which dismissed his complaint for illegal dismissal against Hospital Managers, Inc. (HMI), its officers,^[3] and Archdiocese of Manila or Roman Catholic Archbishop of Manila (RCAM), which owned Cardinal Santos Medical Center (CSMC).

The Antecedents

The case stems from a complaint for illegal dismissal and other monetary claims filed by Publico against HMI and RCAM (respondents), among several other respondents, with the National Capital Region Arbitration Branch in Quezon City.

Publico was employed to work at CSMC in 1989, and was the hospital's Chief of Blood Bank Section, Laboratory Department when he was dismissed from employment by HMI in 2008.^[4] The dismissal was founded on Publico's gross and/or habitual negligence, as penalized under the following provisions of the HMTs Code of Discipline for employees, and indicated in an inter-office memo dated March 19, 2008 that directed Publico to answer the charges:

FIRST CHARGE - Rule 005-05, Work Performance, Section 10.4.f — Gross and/or Habitual Negligence —

Blatant disregard to perform the required care or diligence demanded by the situation tantamount to wanton or reckless disregard, of established rules and regulations.

SECOND CHARGE - Operating Policies and Procedures

Rule 011-05, Operating Policies and Procedures

In the conduct of its business and affairs, the Company has established procedures, which are communicated to the employees. These

procedures have been thought out and prescribed in order to protect the life of the patients, guard against losses to the Company and to assure effective operations of all levels.

Section 1

Willful or intentional Non-observance of Standard Operating Procedures in Handling of Any Transaction or Work Assignment for Purposes of Personal or Another Person's Gain, Profit or Advantage.^[5]

Prior to Publico's dismissal, HMI discovered incidents of unauthorized sale of blood and apheresis units by laboratory personnel, who also issued fake receipts and failed to remit payments to the hospital. When asked to explain his side on the issue, Publico denied any participation in the anomalous transactions. He claimed to have known of the incidents of unauthorized sale only when he was asked to participate in the investigation. He further evaded any responsibility by claiming that while *five* employees were investigated for the scheme, only one of them was under his supervision in the blood bank section. He was also tasked to supervise only personnel assigned in the morning shift, while the supposed unauthorized transactions happened during the night shift.^[6]

Further investigations conducted by HMTs Management Investigation Committee eventually led to Publico's dismissal on May 9, 2008, through a Notice of Termination served upon him.^[7] Feeling aggrieved, Publico charged the respondents with illegal dismissal before the Labor Arbiter (LA).^[8]

HMI and CSMC presented their respective defenses. HMI, which was the operator of CSMC from 1988 to August 14, 2008, maintained their claim of unauthorized sale of blood and apheresis units during the time that Publico was Section Chief of the Pathology and Laboratory Services. The illegal transactions went on for three years, leading to the dismissal of five employees who participated therein. HMI insisted that the wrongful scheme persisted because of Publico's failure to properly supervise, monitor and adopt preventive measures within his section.^[9]

For its part, RCAM explained that it is a corporation sole and the registered owner of the parcel of land being occupied by CSMC. On August 1, 1988, it entered into an Agreement for Joint Apostolate with HMI, whereby the latter was given the use and possession of the land and hospital. Also part of the agreement was HMI's assumption as the new employer of CSMC's existing personnel. Given the set-up, RCAM argued that it could not be held liable for Publico's charge of illegal dismissal. It further cited a compromise agreement executed by HMI and RCAM, whereby all liabilities such as third party claims, salaries, wages and separation pay of HMI's employees shall be for the account of HMI. Publico was hired in 1989, or during the effectivity of the Agreement for Joint Apostolate.^[10]

Ruling of the LA

The LA ruled in favor of Publico. He was declared illegally dismissed from employment, but only RCAM and CSMC were declared liable for the monetary

claims. The LA believed that Publico was employed by CSMC in 1986, or prior to the effectivity of the Agreement for Joint Apostolate with HMI. The change in the hospital's operator could not have affected Publico's status as an employee of RCAM.
[11]

The decretal portion of the LA's decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering [RCAM] and [CSMC] to jointly and severally pay [Publico] the amount of TWO HUNDRED NINETY[-]ONE (THOUSAND) SIX HUNDRED THIRTY[-]FIVE PESOS and 13/100 (P291,635.13) representing the backwages, accrued leave and attorney's fees.

Respondents are further ordered to reinstate [Publico] to his former position without loss of seniority rights.

The complaint against [HMI and its officers] and all other claims are dismissed for lack of merit.

SO ORDERED. [12]

Dissatisfied, RCAM appealed to the National Labor Relations Commission (NLRC).

Ruling of the NLRC

On August 6, 2010, the NLRC rendered its Decision^[13] favoring RCAM. The NLRC found Publico employed in 1989, instead of 1986 as mentioned by the LA in its decision. HMI was declared the employer of Publico, and as such was solely liable for the illegal dismissal. Per its agreement with RCAM, HMI became the employer of Publico when it became the operator of CSMC. Reinstatement, however, was no longer feasible considering that a new entity had taken over the hospital.^[14] The dispositive portion of the NLRC decision reads:

WHEREFORE, premises considered, [RCAM's] appeal is GRANTED. The Decision of the Executive [LA] dated March 12, 2009 is hereby REVERSED and SET ASIDE, and a NEW ONE is rendered finding [HMI] solely liable for illegal dismissal and ordered to pay [Publico]:

1. Backwages computed [from] the time his wages [were] withheld up to September 1, 2009;
2. Separation pay equivalent to one month pay for every year of service computed from 1989, the year [Publico] was employed;

3. Proportionate 13th month pay for the years 2008 and 2009;
4. Unused vacation leave equivalent to the amount of P18,910.11;
5. Unused sick leave equivalent to the amount of P14,952.18; and
6. Attorney's fees equivalent to ten [percent] (10%) of the total monetary award.

The Computation Unit of the [NLRC] is hereby directed to compute the aforesaid awards, and the computation shall form part of this decision.

SO ORDERED.^[15]

HMI's motion for reconsideration was denied by the NLRC,^[16] which prompted it to file a petition for *certiorari* with the CA.

Ruling of the CA

On August 29, 2013, the CA rendered its Decision^[17] reversing the NLRC. For the appellate court, Publico was validly dismissed for gross and habitual neglect of duties. Given his position in the hospital, Publico could have prevented, or at least discovered and reported, the anomalous transactions of his personnel. His failure to do so evidenced the neglect.^[18]

Besides the just cause, the requirement of procedural due process was satisfied through the opportunity given to Publico to explain his side prior to his dismissal, as well as the chance to seek a reconsideration of the action or ruling complained of. Given its ruling on the legality of the dismissal, the CA found it unnecessary to rule on the entity that should be declared liable for Publico's monetary claims.^[19] The CA decision's dispositive portion states:

WHEREFORE, premises considered[,] the instant petition is hereby **GRANTED**. Accordingly, the Decision dated August 6, 2010 and Resolution dated December 13, 2010 of the [NLRC] in NLRC NCR Case No. 00-056-06841-08 are hereby **REVERSED and SET ASIDE** and a new one is entered declaring [Publico] to have been validly dismissed. Necessarily, the backwages, separation pay, 13th month pay, unused vacation leave pay and attorney's fees awarded in his favor are hereby **DELETED**.

SO ORDERED.^[20]