

## SECOND DIVISION

[ G.R. No. 200729, September 29, 2014 ]

**TEMIC AUTOMOTIVE (PHILIPPINES), INC., VS. PETITIONER,  
RENATO M. CANTOS, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the present petition for review on *certiorari*<sup>[1]</sup> which seeks the reversal of the decision<sup>[2]</sup> dated September 28, 2011 and resolution<sup>[3]</sup> dated February 16, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 117171.

#### The Antecedents

On March 9, 2009, respondent Renato M. Cantos (*Cantos*) filed a complaint for illegal dismissal against petitioner Temic Automotive (Phils.), Inc. (*Temic*) based in Taguig City and its General Manager (*GM*), Martin Wadewitz (*Wadewitz*).<sup>[4]</sup> Cantos started his employment with Temic on July 16, 1993 as Special Projects Officer of the company's Materials Department. Sometime in 1998, he was appointed Purchasing & Import-Export Manager (*Purchasing Manager*) of the Logistics Department and, on December 1, 2007, he was named Warehouse & Import-Export Manager (*Wimpex Manager*), the last position he held before he was allegedly dismissed illegally.

Temic is a member firm of Continental Corporation, a multinational company (with head office in Germany), with over sixty facilities worldwide. It is engaged in vehicle safety applications, comfort and powertrain, as well as in the networking of active and passive driving systems.<sup>[5]</sup> In September and December 2008, a team from the head office audited Temic's operations. The audit team allegedly discovered several irregularities, particularly with respect to Temic's purchasing transactions supposedly attended by "fraudulent activities."<sup>[6]</sup> Some purchase orders (*POs*), it was claimed, were ensured to go to some suppliers, thereby systematically avoiding a competitive tender process. Temic believed the irregularities could only have happened with the participation of personnel in the Purchasing and Manufacturing departments. It stressed that initial findings indicated that Cantos, as former Purchasing Manager, "was likely involved in said transactions."<sup>[7]</sup>

On December 11, 2008, Temic issued a Show Cause and Preventive Suspension Notice<sup>[8]</sup> to Cantos, requiring him to explain in writing several infractions which he allegedly committed during his stint as Purchasing Manager. He was charged principally with having violated Temic's procedures on purchases, particularly the Purchase Activities in System, Application, Products in Data Processing (FV 9-F0081) and the Non-Production/Indirect Material Purchasing Procedures (FV9-F0158).

**Allegedly, Cantos failed to meet the required number of purchase quotations, in violation of paragraph 10.6.1 of FV 9-F0158 under which purchases of all articles must conform with Continental Temic Electronics (Phils.), Inc. (CTEPI,) Procurement Policy and that of Temic as a general rule.**<sup>[9]</sup> Cantos would claim<sup>[10]</sup> that from 2005 to early 2008, he was tasked to also serve the Purchasing Department of CTEPI (without additional compensation), a sister firm of Temic located in Calamba, Laguna and that it was in relation with his work in CTEPI that his dismissal was chiefly based. He would also claim that the purchasing procedures are essentially the same for CTEPI and for Temic, except that in CTEPI's case, the signature of the GM is not required for the **Process Deviation Temporary Authority (PDTA)**.

Under par. 10.6.1 of FV 9-F0158, before a purchase is made in Temic, quotations must be secured based on the purchasing value as follows: (1) **P1.00-P50,599.00 (1 quotation/bid); (2) P51,000.00-P200,999.00 (min. 2 quotations/bids); and (3) P201,000-above (min. 3 quotations/bids).** **Cantos allegedly allowed the proliferation of deviations from the established procedures and resorted instead to the PDTAs favoring suppliers Globaltech Automation, Inc. (Globaltech) and Maxtronix, Inc. (Maxtronix) without a valid reason and despite the lapse of a substantial lead time** (up to three months between the date of receipt of the quotation and date of validity of the PDTA). **Under both the Temic and CTEPI purchasing procedures, the acquisition of machines without the three quotations/bids is allowed through the PDTA.**

Temic maintained that by favoring Globaltech and Maxtronix, Cantos violated the provisions of pars. 10.6.1 and 10.6.3 of FV 9-F0158 requiring that *"in general, [d]ecision has to be made in favor of the accredited supplier/vendor or bidder with the lowest total cost, based on the fulfillment of the specification,"* insinuating that the two suppliers were not accredited. As none of the PDTAs was approved and signed by the GM, Cantos was also charged of deviating from the normal protocol in the tender process (par. 10.6.3 of FV-9-F0158) which requires that the PDTA should be signed by the department manager, senior manager, purchasing manager, controlling manager and GM.

Additionally, Cantos was charged with the: (1) disappearance of optional items supposed to be part of purchase orders; (2) engagement of customs brokers **Airfreight 2100** and **Diversified Cargo** without contracts; (3) unauthorized engagement of personnel of the two customs brokers to work for Temic; and (4) failure to consolidate deliveries from the same point of origin, resulting in higher costs for the company. Cantos supposedly also violated the Employee Handbook and Code of Discipline, particularly Group II on Insubordination, No. 9 and Group III on Fraud, Acts of Dishonesty and/or Breach of Trust, No. 14, and the Code of Conduct on Personal Ethics provisions on "suppliers," "internal controls" and "conflict of interest."

On December 12, 2008, Cantos asked for copies of documents he considered necessary for his reply to the show-cause notice,<sup>[11]</sup> but he was given only copies of the POs. He was advised that the other documents were "irrelevant" or "can be presented at the proper time if deemed necessary by the company."<sup>[12]</sup>

Cantos submitted his explanation on December 18, 2008.<sup>[13]</sup> The salient points of

the submission are as follows:[14]

1. There are three instances when a deviation from the three- quotation requirement is allowed and they are: (a) when skeleton agreements or global contracts are available; (b) when "accredited suppliers/vendors are approved;" or (c) when there is an immediate need for the item to be purchased. The POs in question which number only twelve (12),[15] out of more than thirty thousand (30,000)[16] processed during his tenure as Purchasing Manager, were all covered by duly- accomplished PDTAs.
2. He was not to blame for the missing optional items because he handled only the purchasing aspect of the transactions. The items were delivered to Temic's Receiving Section to determine whether they are complete and then sent to the end-user department which determines if the deliveries are indeed complete and, when an item is missing, informs the Purchasing Department about it. He never received information on missing deliveries.
3. The contracts with Airfreight 2100 and Diversified Cargo were just awaiting the signatures of the customs brokers. Said contracts were upon the initiative of Temic management who had been dealing with the two customs brokers even before he became head of the Imports-Exports Department.
4. The hiring of the personnel of the two customs brokers was at the behest of his superior Rosalie Isaac (*Isaac*) and former Warehouse Manager Antonio Gregorio in order to respond to Temic's need for additional manpower without incurring the costs usually entailed for regular employees.
5. The non-consolidation of shipments coming from the same point of origin happens only when the other shipments are under DDU or DDP terms or when the delivery charges are for the account of the suppliers. During his tour of duty, he significantly lowered shipment costs by reducing evening shipments, thus avoiding special customs fees for night or backdoor releases.

Temic then conducted an administrative investigation[17] where Cantos appeared, together with his counsel. Cantos believed he was able to establish his compliance with Temic's procurement procedures during his term as Purchasing Manager and was confident he would be found innocent of the charges against him.[18] Even so, he bewailed Temic's suspicion, aired during the investigation, that he connived with CTEPI's Raul Navarro (*Navarro*), Senior Manager for Manufacturing, and Navarro's subordinate, Arnold Balita (*Balita*), Process Engineering & Maintenance Manager, as well as Globaltech and Maxtronix, in favoring the two suppliers' bids.

Cantos explained that sometime in 2008, Temic's former foreign expatriate GM, Eynollah Rahideh (*GM Rahideh*), was audited due to a conflict of interest incident involving the planned purchase of a FUJI NXT machine from Japan for P30,000,000.00. The purchase was cancelled and transferred to a European firm, FUJI-Germany, where his son worked. GM Rahideh suspected Navarro and Balita to have given the information to the head office in Germany about the incident. Cantos was asked by the head office for copies of documents on the planned purchase. He complied with the request and since then he had never been in good terms with GM

Rahideh.

Thereafter, according to Cantos, rumors circulated that Navarro and Balita were conniving with Globaltech and Maxtronix for the two suppliers to corner Temic's equipment purchases, for a commission. Then, word spread that Cantos was complicit with the alleged fraudulent act, despite the fact that he was not close to Navarro and Balita.

In October 2008, flowers for the dead were sent to Temic's Purchasing Manager, Gemma Ignacio (*Ignacio*) who had taken over Cantos' position as Purchasing Manager. Navarro and Balita were suspected to be behind the sending of the flowers. Ignacio allegedly tried to get back at the two, but she was pre-empted by their resignation. She thus trained her attention on Cantos whose position as Wimpex Manager she coveted.

The new foreign expatriate GM, Wadewitz, took the cudgels for Ignacio who had assumed the position of Wimpex Manager. Wadewitz wanted Cantos to provide the company information about the "fraudulent activities" of Navarro and Balita, but since Cantos had no knowledge of their activities, he could not tell Temic anything. This proved to be his undoing as he was dismissed for charges that he claimed remained unsubstantiated.

On February 16, 2009, Temic issued a notice of termination of employment<sup>[19]</sup> to Cantos, with immediate effect, on grounds of loss of trust and confidence. **It stressed that while Cantos initially denied any wrongdoing, he eventually admitted having bypassed some purchasing procedures and/or local controls, although allegedly due to simple oversight on his part.** It added that after a careful deliberation and based on his own admission, as well as the evidence, it had been established that he committed the acts he was charged with.

### **The Compulsory Arbitration Rulings**

In a decision<sup>[20]</sup> dated November 27, 2009, Labor Arbiter Jaime M. Reyno (*LA Reyno*) dismissed the complaint for lack of merit. LA Reyno declared that Cantos, a managerial employee, had lost the trust and confidence of his employer for the various infractions he committed as company Purchasing Manager.

Cantos appealed the dismissal. Through its decision<sup>[21]</sup> of July 30, 2010, the National Labor Relations Commission (*NLRC*) affirmed LA Reyno's ruling and dismissed the appeal. Cantos then moved for reconsideration, but the NLRC denied the motion,<sup>[22]</sup> prompting him to seek relief from the CA by way of a petition for *certiorari* under Rule 65 of the Rules of Court.

### **The CA Proceedings**

Cantos argued before the CA that the NLRC committed grave abuse of discretion in upholding his dismissal. He maintained that he committed no act that violated the purchasing procedures of either CTEPI or Temic since both procedures allow the acquisition of machines from a supplier even without the three-quotations/bids requirement, through the due accomplishment of PDTAs. Contrary to the pronouncement of the NLRC, he never admitted violating the company rules on

purchases as there was no proof of his wrongdoing. He decried the absence of the minutes of the investigation since only an attendance sheet was presented in evidence.<sup>[23]</sup>

He pointed out that his supposed admission was mentioned only in Ignacio's affidavit.<sup>[24]</sup> He disputed the probative value of the affidavit because it came from a company official who had been hostile to him, rendering her declarations suspect; no other employee corroborated her story and she merely "parroted" the words used in the termination-of-employment letter<sup>[25]</sup> issued to him by Temic through Human Resource Manager Artemio Del Rosario (*Del Rosario*).

For its part, Temic argued that the NLRC correctly ruled that the complaint is devoid of merit as Cantos patently violated the company's purchasing procedures. It maintained that he was caught red-handed in the act and his belated presentation of separate purchasing rules for CTEPI and Temic would not do him any good as the documents should have been presented as early as during the administrative investigation.

It argued that Cantos cannot rely on mere unsubstantiated arguments to refute the valid and admissible evidence it presented. It insisted that he was afforded due process before he was dismissed.

In its decision under review, the CA granted the petition. It reversed the NLRC rulings and declared that Cantos had been illegally dismissed. It found no valid cause for his dismissal and he was not accorded due process. Consequently, the CA ordered Temic to pay Cantos full backwages and separation pay (in lieu of reinstatement since it is no longer viable), moral and exemplary damages, plus attorney's fees. However, it absolved Wadewitz from liability for Cantos' dismissal as no malice or bad faith on his part was "sufficiently proven."<sup>[26]</sup>

While the CA noted that Cantos occupied a position of trust and confidence as Purchasing Manager (so as to satisfy one of the requisites of a dismissal for breach of trust), it found that Temic "utterly" failed to establish the requirements under the law and jurisprudence for his dismissal on that ground. It noted that the principal charge Temic lodged against Cantos arose from his violation of its purchasing procedures (FV 9-F0158), yet it adduced in evidence POs for CTEPI, an entity separate and distinct from it and had a different set of purchasing procedures.

The CA stressed that nowhere in the records could evidence be found showing that Cantos deliberately failed to secure at least three quotations (under par. 10.6.1 of FV 9-F0158) for the supply of equipment covered by the eleven (11) POs. It upheld his position that there are exceptions to the rule and that he relied on this excepting clause for the PDTAs in question. The CA further pointed out that Temic failed to prove its allegation that the purchases were not from accredited suppliers or bidders with the lowest total cost. It also faulted Temic for blaming Cantos for not securing the GM's approval (signature) for the subject PDTAs as the GM's signature is not required for CTEPI purchases, although it is a requirement for Temic PDTAs.

The CA disagreed with the NLRC's finding that based on the minutes of the administrative hearing, Cantos admitted having violated company rules. The "minutes," the CA clarified, were a mere attendance sheet.<sup>[27]</sup>