682 Phil. 143

# THIRD DIVISION

# [ G.R. No. 175932, February 15, 2012 ]

## WUERTH PHILIPPINES, INC., PETITIONER, VS. RODANTE YNSON, RESPONDENT.

## D E C I S I O N

**PERALTA, J.:**

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to set aside the Decision[1] dated July 13, 2006 and the Resolution[2] dated December 6, 2006 of the Court of Appeals (CA), in CA-G.R. SP No. 00845, which affirmed with modification the Resolutions of the National Labor Relations Commission (NLRC), Fifth Division, Cagayan de Oro City, in NLRC CA NO. M-008246-2004 (RAB 11-09-00949-03), dated July 29, 2005 and November 24, 2005.

The factual antecedents are as follows:

On August 15, 2001, petitioner Wuerth Philippines, Inc., a subsidiary of Wuerth Germany, hired respondent Rodante Ynson, as its National Sales Manager (NSM) for Automotive. As NSM, respondent was required to travel to different parts of the country so as to supervise the sales activities of the company's sales managers, make a schedule of activities geared towards increasing the sales of petitioner's products, and submit said schedule to Marlon Ricanor, Chief Executive Officer of petitioner company.

In an electronic mail (e-mail)[3] dated January 4, 2003 sent to Ricanor, respondent furnished the former with a copy of his sales targets for the year 2003 and coverage plan for the month of January 2003, and indicated that he intends to be on leave from January 23 to 24, 2003. However, respondent was not able to follow the said coverage plan starting January 26, 2003, as he failed to report to work since then. It turned out that on January 24, 2003, he suffered a stroke, and on the succeeding days, he was confined at the Davao Doctor's Hospital. He immediately informed petitioner about his ailment.

On March 27, 2003, Dr. Daniel de la Paz, a Neurologist-Electroencephalographer in Davao City, issued a Certification[4] stating that respondent has been under his care since January 24, 2003 and was confined in the hospital from January 24 to February 3, 2003 due to sudden weakness on the left side of his body. In another Medical Certificate[5] dated June 4, 2003, Dr. De la Paz certified that respondent may return to work, but advised him to continue with his rehabilitation regimen for another month and a half.

Dr. Bernard S. Chiew, a specialist on Adult Cardiology, also issued an undated Medical Certificate[6] stating that he examined respondent who was diagnosed with

primary hypertension, diabetes mellitus II, S/P stroke on June 4, 2003, and recommended that the latter should continue with his physical rehabilitation until July 2003.

On June 9, 2003, respondent sent an e-mail[7] to Hans Sigrit of Wuerth Germany, informing the latter that he can return to work on June 19, 2003, but in view of the recommendation of doctors that he should continue with his rehabilitation until July, he requested that administrative work be given to him while in Davao City, until completion of his therapy. On June 10, 2003, Alexandra Knapp, Secretary of the Management Board of Wuerth Germany, forwarded the e-mail[8] to Ricanor.

Thereafter, Ricanor sent a letter[9] dated June 12, 2003 to respondent, directing him to appear before the former's office in Manila, on July 1, 2003 at 9:00 a.m., for an investigation, relative to the following violations which carry the penalty of suspension and/or dismissal, based on the following alleged violations: (1) absences without leave since January 24, 2003 to date, and (2) abandonment of work. In a letter[10] dated June 26, 2003, respondent replied that his attending physician advised him to refrain from traveling, in order not to disrupt his daily schedule for therapy and medication.

On June 18, 2003, Knapp sent an e-mail[11] to respondent, informing him that his request for detail in Davao was disapproved, as petitioner did not have any branch in Davao and there was no available administrative work for him. Meanwhile, petitioner company bewailed that its sales suffered, as nobody was performing the duties of the NSM and the office space reserved for respondent remained vacant.

Later, Ricanor sent two letters,[12] dated July 4, 2003 and July 31, 2003, to respondent, resetting the investigation to July 25, 2003, at 9:00 a.m., and August 18, 2003, respectively. Both letters reiterated the contents of his first letter to respondent dated June 12, 2003, but included gross inefficiency as an additional ground for possible suspension or dismissal.

In his letters[13] dated July 21, 2003 and August 12, 2003, respondent reiterated the reasons for his inability to attend the investigation proceedings in Manila and, instead, suggested that Ricanor come to Davao and conduct the investigation there.

Finally, in a letter[14] dated August 27, 2003, Ricanor informed respondent of the decision of petitioner's management to terminate his employment, effective upon date of receipt, on the ground of continued absences without filing a leave of absence.

Respondent's salary at the time of the termination of his employment was P175,000.00 per month.

On September 5, 2003, respondent filed a Complaint against petitioner and Ricanor, in his capacity as petitioner company's Chief Executive Officer, for illegal dismissal and non-payment of allowances, with claim for moral and exemplary damages and attorney's fees, in the NLRC, Regional Arbitration Branch No. XI in Davao City.

The parties submitted their respective Position Papers. Thereafter, Labor Arbiter

Amado M. Solamo rendered a Decision[15] dated July 15, 2004, the dispositive portion thereof reads:

> WHEREFORE, judgment is hereby rendered:
>
> 1. Finding respondents guilty of illegal dismissal;
>
> 2. Ordering respondents to reinstate complainant to his former position without loss of seniority rights and privileges immediately upon receipt hereof. In case of appeal, respondents are hereby ordered to reinstate complainant in the payroll;
>
> 3. Ordering respondents to pay complainant, the following:
>
> a) Full backwages
>
> (Aug. 29, 2003 to July15, 2004)
>
> (11 months x P175,000.00) ..... P1,925,000.00
>
> b) Medical benefits..... 300,000.00
> c) 13th month pay Y2003..... 175,000.00
> d) Moral and Exemplary Damages ..... 3,000,000.00
> e) 10% of the total award as attorney's fees..... 540,000.00
>
> TOTAL AMOUNT: P5,940,000.00
>
> SO ORDERED.[16]

Petitioner and Ricanor appealed to the NLRC (Cagayan de Oro City), which affirmed with modification the Decision of the Labor Arbiter in a Resolution[17] dated July 29, 2005, reducing the total awards of moral and exemplary damages from P3,000,000.00 to P600,000.00 and P300,000.00, respectively, and the attorney's fees adjusted in an amount equivalent to ten (10%) percent of the total monetary award.

On August 26, 2005, petitioner and Ricanor filed their Motion for Reconsideration. [18]

In a Resolution[19] dated November 24, 2005, the NLRC modified its Decision, further reducing the awards of moral damages from P600,000.00 to P150,000.00, and exemplary damages from P300,000.00 to P50,000.00, respectively.

Aggrieved, petitioner and Ricanor filed before the CA a Petition for Certiorari with Application for the Issuance of a Temporary Restraining Order and Preliminary Injunction.

On July 13, 2006, the CA rendered a Decision,[20] finding the petition partly meritorious. It found that petitioner had the right to terminate the employment of

respondent, and that it had observed due process in terminating his employment. While the CA deleted the awards of backwages and moral and exemplary damages, it nonetheless ordered petitioner to pay respondent the following amounts: P1,225,000.00 (representing his salary from February 2003 to August 29, 2003), medical expenses of P94,100.00, temperate damages of P100,000.00, 13th month pay of P175,000.00, and attorney's fees of 10% of the total monetary award.

Petitioner filed a Motion for Reconsideration, which the CA denied in a Resolution[21] dated December 6, 2006.

Petitioner filed this present Petition for Review on *Certiorari*, raising the following assignment of errors:

I.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT AWARDED P1,225,000.00 REPRESENTING THE PRIVATE RESPONDENT'S MONTHLY SALARY OF P175,000.00 FROM FEBRUARY 2003 TO AUGUST 29, 2003.

II.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT AWARDED MEDICAL EXPENSES OF P94,100.00 TO THE PRIVATE RESPONDENT.

III.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT AWARDED TEMPERATE DAMAGES OF P100,000.00 IN FAVOR OF THE PRIVATE RESPONDENT.

IV.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT AWARDED 13TH MONTH PAY OF P175,000.00 IN FAVOR OF THE PRIVATE RESPONDENT.

V.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT AWARDED ATTORNEY'S FEES IN FAVOR OF THE PRIVATE RESPONDENT. [22]

Petitioner insists that the ground for the dismissal of the respondent was his gross dereliction of duties as NSM.

The CA ruled that pursuant to Article 284 of the Labor Code, respondent's illness is considered an authorized cause to justify his termination from employment. The CA ruled that although petitioner did not comply with the medical certificate

requirement before respondent's dismissal was effected, this was offset by respondent's absence for more than the six (6)-month period that the law allows an employee to be on leave in order to recover from an ailment.

We agree. With regard to disease as a ground for termination, Article 284 of the Labor Code provides that an employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health, as well as to the health of his co-employees.

In order to validly terminate employment on this ground, Section 8, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code requires that:

> Section 8. *Disease as a ground for dismissal.* — Where the employee suffers from a disease and his continued employment is prohibited by law or prejudicial to his health or to the health of his co-employees, the employer shall not terminate his employment unless there is a certification by a competent public health authority that the disease is of such nature or at such a stage that it cannot be cured within a period of six (6) months even with proper medical treatment. If the disease or ailment can be cured within the period, the employer shall not terminate the employee but shall ask the employee to take a leave. The employer shall reinstate such employee to his former position immediately upon the restoration of his normal health.

In *Triple Eight Integrated Services, Inc. v. NLRC,*[23] the Court held that the requirement for a medical certificate under Article 284 of the Labor Code cannot be dispensed with; otherwise, it would sanction the unilateral and arbitrary determination by the employer of the gravity or extent of the employee's illness and, thus, defeat the public policy on the protection of labor. In the present case, there was no showing that prior to terminating respondent's employment, petitioner secured the required certification from a competent public health authority that the disease he suffered was of such nature or at such a stage that it cannot be cured within six months despite proper medical treatment, pursuant to Section 8, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code.

The medical certificate, dated June 4, 2003, issued by the attending physician of respondent, shows the following:

> DATE HOSPITALIZED and/or TREATED: January 24, 2003 to present.
>
> DIAGNOSIS: Hypertension, Diabetes Mellitus (adult onset), Hypercholesterolemia, Status Post Stroke, Ischemic-RMCA
>
> RECOMMENDATION: Though the patient is allowed to resume work, in view of his recovery with rehabilitation, he has been advised to continue with his present regimen for at least another month and a half.[24]

Thus, as of June 4, 2003, respondent would have been capable of returning to