

THIRD DIVISION

[G.R. No. 186002, September 19, 2012]

APO CHEMICAL MANUFACTURING CORPORATION AND MICHAEL CHENG, PETITIONERS, VS. RONALDO A. BIDES, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

Before the Court is a Petition for Review under Rule 45 of the Rules of Court which seeks to partially set aside the October 23, 2008 Decision^[1] of the Court of Appeals (CA) and its January 12, 2009 Resolution, in CA-G.R. SP No. 91323, affirming with modification the January 25, 2005 Decision^[2] and the June 17, 2005 Resolution^[3] of the National Labor Relations Commission (NLRC).

The Facts:

In January 1992, petitioner Apo Chemical Manufacturing Corporation (ACMC) hired respondent Ronaldo A. Bides (*Bides*). In his eleven (11) years of service, Bides held various positions in ACMC. Initially, he served as a "laminator," then becoming a stay-in employee sometime in October 2000, before working as a "packager" in January 2003.^[4]

On May 14, 2003, Matthew Cheng (*Matthew*), the plant manager of ACMC, sent a written memorandum requiring Bides to explain in writing within forty eight (48) hours his refusal to sign the disciplinary form in connection with his alleged infractions of loitering in the comfort room for about five (5) to eight (8) minutes, two (2) to three (3) times a day, on March 5, 6, 7, 8, 9 and 10, 2003 under pain of revocation of his housing privileges.^[5]

On the same day, instead of submitting a written explanation in compliance with the memorandum, Bides orally explained to William Uy (*William*), another plant manager of ACMC, his justification for his alleged infractions. First, Bides questioned the delay of more than two (2) months in requiring him to explain the alleged infraction. He then argued that urinating, as he was "*nababalisawsaw*" at the time, was not an infraction. He conveyed his willingness to have his housing privileges forfeited as stated in the memorandum.^[6]

On May 19, 2003, Matthew allegedly confronted Bides and prohibited him from reporting for work the following day, as he would be terminated from the company. On May 20, 2003, the day he was supposed to be dismissed from the service, Bides instituted a complaint for illegal dismissal, with prayer for payment of pro-rata 13th month pay, backwages and separation pay, and with claim for damages against ACMC. Bides alleged that ACMC neither formally charged him with any infraction nor served him any written notice of his termination.^[7]

In response, ACMC asserted that it never dismissed Bides and it had no intention to do so. On the contrary, it was Bides who voluntarily stopped working. It stressed that the alleged confrontation never took place. Further, Matthew had no authority to dismiss employees pursuant to the company's working rules which stated that "supervisors or managers could impose disciplinary measures on employees except dismissal."^[8] ACMC went on to manifest its willingness to accept him back for work anytime he would decide to do so.^[9]

On March 30, 2004, the Labor Arbiter (LA) rendered a decision^[10] in favor of Bides. The *fallo* of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal as illegal. As such, respondent Apo Chemical Manufacturing Corporation is hereby ordered to pay complainant the following:

1. The sum of .82,361.07 as backwages;
2. The sum of .87,874.80 as separation pay;
3. The sum of .2,524.47 as pro-rata 13th month pay for the year 2003; and
4. The sum equivalent to ten percent of the foregoing monetary awards as attorney's fee.

All other claims are ordered dismissed for lack of merit.

SO ORDERED.^[11]

In concluding that Bides was illegally dismissed, the LA explained that for him to quit his job without any reason, as ACMC had insisted, simply defied logic. The LA gave credence to Bides' version that indeed a confrontation took place between Matthew and him, and found Matthew's statement, prohibiting Bides to report for work, sufficient enough to create the impression in the latter's mind that his services were being terminated. The LA concluded that ACMC failed to discharge its evidentiary burden that Bides was dismissed for cause with due process. In awarding separation pay, the LA took into consideration his desire not to be reinstated due to strained relations.

Dissatisfied, ACMC sought recourse with the NLRC. In its Decision, dated January 25, 2005, the NLRC *reversed* the LA's Decision. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the assailed decision is hereby reversed. Respondents are adjudged not guilty of illegal dismissal. The awards of backwages and separation pay are deleted from the assailed decision. Respondents are hereby ordered to reinstate complainant to his former position or equivalent position, without loss of seniority rights and other privileges but without backwages. Respondents are likewise ordered to pay complainant the pro-rata 13th month pay for the year

2003.

SO ORDERED.^[12]

In granting ACMC's appeal, the NLRC explained that "aside from the non-binding utterances of the plant manager, there was no overt act displayed by [ACMC] which would have indicated a desire to dismiss [Bides]."^[13] Between an affirmative allegation of illegal dismissal and a negative allegation of non-dismissal, the NLRC believed that Bides, making the affirmative allegation, had the burden of proof which he failed to discharge. Moreover, the NLRC did not find any factual basis to support the payment of separation pay in lieu of reinstatement.

Bides moved for reconsideration but it was denied by the NLRC in its June 17, 2005 Resolution.

Aggrieved, Bides elevated the case to the CA *via* a petition for certiorari under Rule 65 alleging grave abuse of discretion on the part of the NLRC in rendering the assailed decision and resolution.

In its Decision, dated October 23, 2008, the CA affirmed with modification the January 25, 2005 Decision of the NLRC. The CA, in awarding separation pay in lieu of reinstatement, took into account the fact of strained relations between the parties. The decretal portion of its decision reads:

IN VIEW OF THE FOREGOING, the assailed NLRC decision absolving the respondent of the charge of illegal dismissal and deleting the awards of backwages and separation, but providing 13th month pay pro-rata for the year 2003, [is] AFFIRMED. In lieu of reinstatement, the respondent is ordered to pay the petitioner financial assistance by way of separation pay of one-half month salary per year based on current rate, for eleven years.

SO ORDERED.^[14]

ACMC filed a motion for reconsideration, but it was denied by the CA in its January 12, 2009 Resolution. Hence, this petition.

THE ISSUES

ACMC seeks relief from this Court raising the following issues:

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THERE WERE "STRAINED RELATIONS" BETWEEN PETITIONERS AND BIDES NOTWITHSTANDING TOTAL ABSENCE OF EVIDENCE.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN ORDERING PETITIONERS TO PAY BIDES "FINANCIAL ASSISTANCE BY WAY