

SECOND DIVISION

[G.R. No. 177937, January 19, 2011]

**ROBINSONS GALLERIA/ROBINSONS SUPERMARKET
CORPORATION AND/OR JESS MANUEL, PETITIONERS, VS. IRENE
R. RANCHEZ, RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated August 29, 2006 and the Resolution^[2] dated May 16, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 91631.

The Facts

The facts of the case are as follows.

Respondent was a probationary employee of petitioner Robinsons Galleria/Robinsons Supermarket Corporation (petitioner Supermarket) for a period of five (5) months, or from October 15, 1997 until March 14, 1998.^[3] She underwent six (6) weeks of training as a cashier before she was hired as such on October 15, 1997.^[4]

Two weeks after she was hired, or on October 30, 1997, respondent reported to her supervisor the loss of cash amounting to Twenty Thousand Two Hundred Ninety-Nine Pesos (P20,299.00) which she had placed inside the company locker. Petitioner Jess Manuel (petitioner Manuel), the Operations Manager of petitioner Supermarket, ordered that respondent be strip-searched by the company guards. However, the search on her and her personal belongings yielded nothing.^[5]

Respondent acknowledged her responsibility and requested that she be allowed to settle and pay the lost amount. However, petitioner Manuel did not heed her request and instead reported the matter to the police. Petitioner Manuel likewise requested the Quezon City Prosecutor's Office for an inquest.^[6]

On November 5, 1997, an information for Qualified Theft was filed with the Quezon City Regional Trial Court. Respondent was constrained to spend two weeks in jail for failure to immediately post bail in the amount of Forty Thousand Pesos (P40,000.00).^[7]

On November 25, 1997, respondent filed a complaint for illegal dismissal and damages.^[8]

On March 12, 1998, petitioners sent to respondent by mail a notice of termination and/or notice of expiration of probationary employment dated March 9, 1998.^[9]

On August 10, 1998, the Labor Arbiter rendered a decision,^[10] the *fallo* of which reads:

CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered dismissing the claim of illegal dismissal for lack of merit.

Respondents are ordered to accept complainant to her former or equivalent work without prejudice to any action they may take in the premises in connection with the missing money of P20,299.00.

SO ORDERED.^[11]

In dismissing the complaint for illegal dismissal, the Labor Arbiter ratiocinated that at the time respondent filed the complaint for illegal dismissal, she was not yet dismissed by petitioners. When she was strip- searched by the security personnel of petitioner Supermarket, the guards were merely conducting an investigation. The subsequent referral of the loss to the police authorities might be considered routine. Respondent's non-reporting for work after her release from detention could be taken against her in the investigation that petitioner supermarket would conduct.^[12]

On appeal, the National Labor Relations Commission (NLRC) reversed the decision of the Labor Arbiter in a decision^[13] dated October 20, 2003. The dispositive portion of the decision reads:

WHEREFORE, the appealed decision is SET ASIDE. The respondents are hereby ordered to immediately reinstate complainant to her former or equivalent position without loss of seniority rights and privileges and to pay her full backwages computed from the time she was constructively dismissed on October 30, 1997 up to the time she is actually reinstated.

SO ORDERED.^[14]

In reversing the decision of the Labor Arbiter, the NLRC ruled that respondent was denied due process by petitioners. Strip-searching respondent and sending her to jail for two weeks certainly amounted to constructive dismissal because continued employment had been rendered impossible, unreasonable, and unlikely. The wedge that had been driven between the parties was impossible to ignore.^[15] Although respondent was only a probationary employee, the subsequent lapse of her probationary contract of employment did not have the effect of validly terminating her employment because constructive dismissal had already been effected earlier by petitioners.^[16]

Petitioners filed a motion for reconsideration, which was denied by the NLRC in a resolution^[17] dated July 21, 2005.

Petitioners filed a petition for *certiorari* under Rule 65 of the Rules of Court before

the CA. On August 29, 2006, the CA rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the challenged Decision of the National Labor Relations Commission is **AFFIRMED** with **MODIFICATION** in that should reinstatement be no longer possible in view of the strained relation between the parties, Petitioners are ordered to pay Respondent separation pay equivalent to one (1) month pay in addition to backwages from the date of dismissal until the finality of the assailed decision.

SO ORDERED.^[18]

Petitioners filed a motion for reconsideration. However, the CA denied the same in a Resolution dated May 16, 2007.

Hence, this petition.

Petitioners assail the reinstatement of respondent, highlighting the fact that she was a probationary employee and that her probationary contract of employment lapsed on March 14, 1998. Thus, her reinstatement was rendered moot and academic. Furthermore, even if her probationary contract had not yet expired, the offense that she committed would nonetheless militate against her regularization.^[19]

On the other hand, respondent insists that she was constructively dismissed by petitioner Supermarket when she was strip-searched, divested of her dignity, and summarily thrown in jail. She could not have been expected to go back to work after being allowed to post bail because her continued employment had been rendered impossible, unreasonable, and unlikely. She stresses that, at the time the money was discovered missing, it was not with her but locked in the company locker. The company failed to provide its cashiers with strong locks and proper security in the work place. Respondent argues that she was not caught in the act and even reported that the money was missing. She claims that she was denied due process.^[20]

The Issue

The sole issue for resolution is whether respondent was illegally terminated from employment by petitioners.

The Ruling of the Court

We rule in the affirmative.

There is probationary employment when the employee upon his engagement is made to undergo a trial period during which the employer determines his fitness to qualify for regular employment based on reasonable standards made known to him at the time of engagement.^[21]