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# SECOND DIVISION

# [ G.R. No. 171630, August 08, 2010 ]

## CENTURY CANNING CORPORATION, RICARDO T. PO, JR. AND AMANCIO C. RONQUILLO, PETITIONERS, VS. VICENTE RANDY R. RAMIL, 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] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP. No. 86939, dated December 1, 2005 and February 17, 2006, respectively.

The antecedents are as follows:

Petitioner Century Canning Corporation, a company engaged in canned food manufacturing, employed respondent Vicente Randy Ramil in August 1993 as technical specialist. Prior to his dismissal on May 20, 1999, his job included, among others, the preparation of the purchase requisition (PR) forms and capital expenditure (CAPEX) forms, as well as the coordination with the purchasing department regarding technical inquiries on needed products and services of petitioner's different departments.

On March 3, 1999, respondent prepared a CAPEX form for external fax modems and terminal server, per order of Technical Operations Manager Jaime Garcia, Jr. and endorsed it to Marivic Villanueva, Secretary of Executive Vice-President Ricardo T. Po, for the latter's signature. The CAPEX form, however, did not have the complete details[3] and some required signatures.[4] The following day, March 4, 1999, with the form apparently signed by Po, respondent transmitted it to Purchasing Officer Lorena Paz in Taguig Main Office. Paz processed the paper and found that some details in the CAPEX form were left blank. She also doubted the genuineness of the signature of Po, as appearing in the form. Paz then transmitted the CAPEX form to Purchasing Manager Virgie Garcia and informed her of the questionable signature of Po. Consequently, the request for the equipment was put on hold due to Po's forged signature. However, due to the urgency of purchasing badly needed equipment, respondent was ordered to make another CAPEX form, which was immediately transmitted to the Purchasing Department.

Suspecting him to have committed forgery, respondent was asked to explain in writing the events surrounding the incident. He vehemently denied any participation in the alleged forgery. Respondent was, thereafter, suspended on April 21, 1999. Subsequently, he received a Notice of Termination from Armando C. Ronquillo, on May 20, 1999, for loss of trust and confidence.

Due to the foregoing, respondent, on May 24, 1999, filed a Complaint for illegal dismissal, non-payment of overtime pay, separation pay, moral and exemplary damages and attorney's fees against petitioner and its officers before the Labor Arbiter (LA), and was docketed as NLRC-NCR Case No. 00-05-05894-99.[5]

LA Potenciano S. Canizares rendered a Decision[6] dated December 6, 1999 dismissing the complaint for lack of merit. Aggrieved by the LA's finding, respondent appealed to the National Labor Relations Commission (NLRC). Upon recommendation of LA Cristeta D. Tamayo, who reviewed the case, the NLRC First Division, in its Decision[7] dated August 26, 2002, set aside the ruling of LA Canizares. The NLRC declared respondent's dismissal to be illegal and directed petitioner to reinstate respondent with full backwages and seniority rights and privileges. It found that petitioner failed to show clear and convincing evidence that respondent was responsible for the forgery of the signature of Po in the CAPEX form.

Petitioner filed a motion for reconsideration. To respondent's surprise and dismay, the NLRC reversed itself and rendered a new Decision[8] dated October 20, 2003, upholding LA Canizares' dismissal of his complaint. Respondent filed a motion for reconsideration, which was denied by the NLRC.

Frustrated by this turn of events, respondent filed a petition for *certiorari* with the CA. The CA, in its Decision dated December 1, 2005, rendered judgment in favor of respondent and reinstated the earlier decision of the NLRC, dated August 26, 2002. It ordered petitioner to reinstate respondent, without loss of seniority rights and privileges, and to pay respondent full backwages from the time his employment was terminated on May 20, 1999 up to the time of the finality of its decision. The CA, likewise, remanded the case to the LA for the computation of backwages of the respondent.

Petitioner filed a motion for reconsideration, which the CA denied in a Resolution dated February 17, 2006. Hence, the instant petition assigning the following errors:

I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DISREGARDING THE UNANIMOUS FINDINGS OF THE LABOR ARBITER AND THE NATIONAL LABOR RELATIONS COMMISSION SUSTAINING THE LEGALITY OF PRIVATE RESPONDENT'S TERMINATION FROM HIS EMPLOYMENT.

II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT PETITIONER CORPORATION FAILED TO SATISFY THE BURDEN OF PROVING THAT THE DISMISSAL OF PRIVATE RESPONDENT WAS FOR A VALID OR AUTHORIZED CAUSE.

III

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN HOLDING

THAT FOR LOSS OF TRUST AND CONFIDENCE TO BE A VALID GROUND FOR AN EMPLOYEE'S DISMISSAL, IT MUST BE SUBSTANTIAL AND NOT ARBITRARY, AND MUST BE FOUNDED ON CLEARLY ESTABLISHED FACTS, OVERLOOKING THE RULE THAT THE MERE EXISTENCE OF A BASIS FOR BELIEVING THAT SUCH EMPLOYEE HAS BREACHED THE TRUST AND CONFIDENCE OF HIS EMPLOYER SUFFICES FOR HIS DISMISSAL.

IV

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT ASIDE FROM HIS INVOLVEMENT IN THE FORGERY OF THE CAPITAL EXPENDITURE (CAPEX) FORMS, PRIVATE RESPONDENT'S PAST VIOLATIONS OR ADMITTED INFRACTIONS OF COMPANY RULES AND REGULATIONS ARE MORE THAN SUFFICIENT GROUNDS TO JUSTIFY THE TERMINATION OF HIS EMPLOYMENT WITH PETITIONER CORPORATION.

Petitioner's main allegation is that there are factual and legal grounds constituting substantial proof that respondent was clearly involved in the forgery of the CAPEX form, *i.e*., respondent is the forger of the signature of Po, as he is the custodian and the one who prepared the CAPEX form; the forged signature was already existing when he submitted the same for processing; he has the motive to forge the signature; respondent has the propensity to deviate from the Standard Operating Procedure as shown by the fact that the CAPEX form, with the forged signature of Po, is not complete in details and lacks the required signatures; also, in February 1999, respondent ordered 8 units of External Fax Modem without the required CAPEX form and a PR form.

Petitioner insists that the mere existence of a basis for believing that respondent employee has breached the trust and confidence of his employer suffices for his dismissal. Finally, petitioner maintains that aside from respondent's involvement in the forgery of the CAPEX form, his past violations of company rules and regulations are more than sufficient grounds to justify his termination from employment.

In his Comment, respondent alleged that petitioner failed to present clear and convincing evidence to prove his participation in the charge of forgery nor any damage to the petitioner.

Anent the first issue raised, petitioner faults the CA in disregarding the unanimous findings of the LA and the NLRC sustaining the legality of respondent's termination from his employment. The rule is that high respect is accorded to the findings of fact of quasi-judicial agencies, more so in the case at bar where both the LA and the NLRC share the same findings. The rule is not, however, without exceptions one of which is when the findings of fact of the labor officials on which the conclusion was based are not supported by substantial evidence. The same holds true when it is perceived that far too much is concluded, inferred or deduced from bare facts adduced in evidence.[9]

In the case at bar, the NLRC's findings of fact upon which its conclusion was based are not supported by substantial evidence, that is, the amount of relevant evidence, which a reasonable mind might accept as adequate to justify a conclusion.[10]

As correctly found by the CA:

> x x x The record of the case is bereft of evidence that would clearly establish Ramil's involvement in the forgery. They did not even submit any affidavit of witness[11] or present any during the hearing to substantiate their claim against Ramil.[12]

Respondent alleged in his position paper that after preparing the CAPEX form on March 3, 1999, he endorsed it to Marivic Villanueva for the signature of the Executive Vice-President Ricardo T. Po. The next day, March 4, 1999, respondent received the CAPEX form containing the signature of Po. Petitioner never controverted these allegations in the proceedings before the NLRC and the CA despite its opportunity to do so. Petitioner's belated allegations in its reply filed before this Court that Marivic Villanueva denied having seen the CAPEX form cannot be given credit. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage.[13] When a party deliberately adopts a certain theory and the case is decided upon that theory in the court below, he will not be permitted to change the same on appeal, because to permit him to do so would be unfair to the adverse party.[14]

Thus, if respondent retrieved the form on March 4, 1999 with the signature of Po, it can be correctly inferred that he is not the forger. Had the CAPEX form been returned to respondent without Po's signature, Villanueva or any officer of the petitioner's company could have readily noticed the lack of signature, and could have easily attested that the form was unsigned when it was released to respondent.

Further, as correctly found by the NLRC in its original decision dated August 26, 2002, if respondent was the one who forged the signature of Po in the CAPEX form, there was no need for him to endorse the same to Villanueva and transmit it the next day. He could have easily forged the signature of Po on the same day that he prepared the CAPEX form and submitted it on the very same day to petitioner's main office without passing through any officer of petitioner.

Accordingly, for want of substantial basis, in fact or in law, factual findings of an administrative agency, such as the NLRC, cannot be given the stamp of finality and conclusiveness normally accorded to it, as even decisions of administrative agencies which are declared "final" by law are not exempt from judicial review when so warranted.[15] Contrary to petitioner's assertion, therefore, this Court sees no error on the part of the CA when it made a new determination of the case and, upon this, reversed the ruling of the NLRC.

As to the second issue, the law mandates that the burden of proving the validity of the termination of employment rests with the employer. Failure to discharge this evidentiary burden would necessarily mean that the dismissal was not justified and, therefore, illegal. Unsubstantiated suspicions, accusations, and conclusions of employers do not provide for legal justification for dismissing employees. In case of

doubt, such cases should be resolved in favor of labor, pursuant to the social justice policy of labor laws and the Constitution.[16]

The termination letter[17] addressed to respondent, dated May 20, 1999, provides that:

> We also conducted inquiries from persons concerned to get more information in (sic) this forgery. Some of your statements do not jibe with theirs. x x x

However, this information which petitioner allegedly obtained from the "persons concerned" was not backed-up by any affidavit or proof. Petitioner did not even bother to name these resource persons.

Petitioner based respondent's dismissal on its unsubstantiated suspicions and conclusion that since respondent was the custodian and the one who prepared the CAPEX forms, he had the motive to commit the forgery. However, as correctly found by the NLRC in its original Decision, respondent would not be benefited by the purchase of the subject equipment. The equipment would be for the use of petitioner company.

With respect to the third issue, while We have previously held that employers are allowed a wider latitude of discretion in terminating the services of employees who perform functions which by their nature require the employers' full trust and confidence and the *mere existence of basis* for believing that the employee has breached the trust of the employer is sufficient,[18] this does not mean that the said basis may be arbitrary and unfounded.

The right of an employer to dismiss an employee on the ground that it has lost its trust and confidence in him must not be exercised arbitrarily and without just cause.[19]Loss of trust and confidence, to be a valid cause for dismissal, must be based on a willful breach of trust[20] and founded on clearly established facts. The basis for the dismissal must be clearly and convincingly established, but proof beyond reasonable doubt is not necessary.[21] It must rest on substantial grounds and not on the employer's arbitrariness, whim, caprice or suspicion; otherwise, the employee would eternally remain at the mercy of the employer.[22]

The case of *Philippine Airlines, Inc. v. Tongson*,[23] cited by the petitioner, is not applicable to the present case. In that case, PAL dismissed Tongson from service on the ground of corruption, extortion and bribery in the processing of PAL's passengers' travel documents. We upheld the validity of Tongson's dismissal because PAL's overwhelming documentary evidence reflects an unbroken chain which naturally leads to one fair and reasonable conclusion, that at the very least, respondent was involved in extorting money from PAL's passengers. We further said that even if there is no direct evidence to prove that the employees actually committed the offense, substantial proof based on documentary evidence is sufficient to warrant their dismissal from employment.

In the case at bar, there is neither direct evidence nor substantial documentary