

## FIRST DIVISION

[ G.R. No. 163091, October 06, 2010 ]

**COCA-COLA BOTTLERS PHILIPPINES, INC., PETITIONER, VS.  
ANGEL U. DEL VILLAR, RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Petitioner Coca-Cola Bottlers Philippines, Inc. (the Company) filed this Petition for Review on *Certiorari*, under Rule 45 of the Rules of Court, seeking the reversal of (1) the Decision<sup>[1]</sup> dated October 30, 2003 of the Court of Appeals in CA-G.R. SP No. 53815, which reversed and set aside the Decision<sup>[2]</sup> dated February 26, 1999 of the National Labor Relations Commission (NLRC) in NLRC CN. NCR-00-12-07634-96; and (2) the Resolution<sup>[3]</sup> dated March 29, 2004 of the appellate court in the same case, which denied for lack of merit the Motion for Reconsideration of the Company.

The antecedent facts are as follows:

The Company, one of the leading and largest manufacturers of beverages in the country, initially hired respondent Angel U. del Villar (Del Villar) on May 1, 1990 as Physical Distribution Fleet Manager with a job grade of S-7 and monthly salary of P50,000.00, aside from the use of a company car, gasoline allowance, and annual foreign travel, among other benefits. In 1992, as part of the reorganization of the Company, Del Villar became the Transportation Services Manager, under the Business Logistic Directorate, headed by Director Edgardo I. San Juan (San Juan). As Transportation Services Manager, Del Villar prepares the budget for the vehicles of the Company nationwide.

While serving as Transportation Services Manager, Del Villar submitted a Report dated January 4, 1996 to the Company President, Natale J. Di Cosmo (Di Cosmo), detailing an alleged fraudulent scheme undertaken by certain Company officials in conspiracy with local truck manufacturers, overpricing the trucks purchased by the Company by as much as P70,000.00 each. In the same Report, Del Villar implicated San Juan and Jose L. Pineda, Jr. (Pineda), among other Company officials, as part of the conspiracy. Pineda then served as the Executive Assistant in the Business Logistic Directorate in charge of the Refrigeration Services of the Company.

In 1996, the Company embarked on a reorganization of the Business Logistic Directorate. As a result, the functions related to Refrigeration were assigned to the Transportation Services Manager, which was renamed the Transportation and Refrigeration Services Manager. Mr. Nathaniel L. Evangelista, the Physical Distribution Superintendent of the Zamboanga Plant, was appointed the Corporate Transportation and Refrigeration Services Manager, replacing both Del Villar and Pineda, who were in charge of the Transportation Services and Refrigeration Services of the Company, respectively. Pineda was then appointed as the Corporate

Purchasing and Materials Control Manager, while Del Villar as Pineda's Staff Assistant. These new appointments took effect on May 1, 1996.<sup>[4]</sup>

On July 8, 1996, seven months after the submission of his Report on the fraudulent scheme of several company officials, Del Villar received a Memorandum<sup>[5]</sup> from San Juan. Through said Memorandum, San Juan informed Del Villar that (1) Del Villar was designated as Staff Assistant to the Corporate Purchasing and Materials Control Manager, with a job grade of NS-VII; (2) with Del Villar's new assignment, he ceased to be entitled to the benefits accruing to an S-7 position under existing company rules and policies; and (3) Del Villar was to turn over the vehicle assigned to him as Transportation Services Manager to Pineda by July 10, 1996.

Although as the Staff Assistant of the Corporate Purchasing and Materials Control Manager, Del Villar continued to receive the same salary as Transportation Services Manager, but his car and other privileges were withdrawn and he spent his time at his new post sitting "at a desk with no meaningful work whatsoever."<sup>[6]</sup> Del Villar believed that he was demoted by the Company to force him to resign. Unable to endure any further the harassment, Del Villar filed with the Arbitration Branch of the NLRC on November 11, 1996 a complaint against the Company for illegal demotion and forfeiture of company privileges. Del Villar also impleaded in his complaint Company President Di Cosmo, Vice-President and General Manager Jaime G. Oracion (Oracion), Senior Vice-President and Human Resources Director Rosa Maria Chua (Chua), San Juan, and Pineda. The complaint was docketed as NLRC CN. NCR-00-12-07634-96, assigned to Labor Arbiter Felipe Pati.

The Company failed to appear, despite due notice, at the scheduled preliminary conference before the NLRC Arbitration Branch.

Del Villar filed his Position Paper, supported by his Complaint Affidavit.

The Company filed a Motion to Dismiss, instead of a position paper, praying for the dismissal of Del Villar's complaint on the ground that Del Villar had no cause of action. The Company reasoned that in appointing Del Villar as the Staff Assistant of the Corporate Purchasing and Materials Control Manager, from his former position as Transportation Services Manager, the Company was merely exercising its inherent management prerogative to transfer an employee from one position to another. The Company also contended that Del Villar had no vested right to the privileges he previously enjoyed as Transportation Services Manager. In an Order dated July 24, 1997, the Labor Arbiter deferred action on the Motion to Dismiss until after submission by the Company of its Position Paper within 15 days from receipt of said order.

The Company filed on October 13, 1997 a Manifestation in which it stated that it was adopting its Motion to Dismiss as its Position Paper.

Thereafter, NLRC CN. NCR-00-12-07634-96 was submitted for resolution.

On March 3, 1998, the Labor Arbiter rendered a Decision in Del Villar's favor. The Labor Arbiter held that the allegations in Del Villar's complaint sufficiently presented a cause of action against the Company. The Company, in filing a Motion to Dismiss, hypothetically admitted the truth of the facts alleged in the complaint, and the

failure of the Company to deny or rebut Del Villar's allegations of bad faith on the part of the Company, gave rise to the presumption against the latter.

The Labor Arbiter proceeded to rule:

The issue as to whether or not [the Company] acted illegally in demoting [Del Villar] is, therefore, answered in the affirmative.

This office is inclined to believe and so holds that the reorganization of [the Company] appears to have been done sans the necessary requisite of good faith, after [Del Villar] had filed his complaint to the company President detailing the scam involving the purchase of the truck fleet of 1996.

[Del Villar] was not outrightly dismissed; instead, he was removed from his former position as Transportation Services Manager, and demoted to Staff Assistant to the Corporate Purchasing and Materials Control Manager. Furthermore, as "Staff Assistant" [Del Villar] allegedly receives his usual salary but his car privileges, gasoline allowances, and foreign travel were withdrawn and he now sits at a desk "with no meaningful work whatsoever."

[Del Villar] appears to have been singled out or discriminated upon due to his having reported the 1996 truck scam, and his present isolation can be seen as a punishment for acting in a righteous and forthright manner. Otherwise, as a "Staff Assistant" [Del Villar] should have been given some meaningful or responsible work appurtenant to the job designation.

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This Office finds and so holds that in all the foregoing rulings, the concept of management prerogative is limited or otherwise qualified. Procedurally and substantively, [the Company] through its named officers appears to have acted illegally and in bad faith in its purported "reorganization", in demoting [Del Villar] and in removing [Del Villar's] company privileges.

Had [Del Villar] resigned under the circumstances, he could be said to have been constructively discharged because a constructive discharge is defined as "a quitting because continued employment is rendered impossible, unreasonable and unlikely, as an offer involving demotion in rank and a diminution in pay". (Philippine Japan Active Carbon Corporation and Tokuichi Satofuka vs. NLRC, G.R. 83239, Mar. 1989).<sup>[7]</sup>

For demoting Del Villar without justifiable cause, the Labor Arbiter ruled that the Company was liable for the following:

As a consequence of [the Company's] acts [Del Villar] suffered the effects of humiliation, a besmirched reputation, serious anxiety and

sleepless nights which justify an award of moral damages.

In order to serve as an example to other companies who may be so inclined as to emulate [the Company's] act of punishing their employee's honesty and sense of fair play, [the Company] must per force be assessed exemplary damages.

In order to protect and vindicate his rights under the Labor Code, [Del Villar] was constrained to retain counsel for which [the Company] should be assessed attorney's fees of not less than ten percent (10%) of the awarded sum.

In the matter of the unlawful withdrawal of [Del Villar's] car, gasoline allowance and foreign travel by [the Company], it is obligated to rectify the withdrawal of privileges by returning to [Del Villar] the said Toyota car, and if that is not possible, its value as of the time said car was withdrawn including the value of the gasoline allowance and foreign travel due him.<sup>[8]</sup>

In the end, the Labor Arbiter decreed:

WHEREFORE, premises considered judgment is hereby rendered against [the Company and the impleaded Company officials] and in favor of [Del Villar] ordering [the Company] to (1) reinstate [Del Villar] to his former job level; (2) to return the car to [Del Villar] or to compensate [Del Villar] for the loss of his privileges such as the value of the Toyota car as of the time of taking including the value of the gasoline allowance and the foreign travel due [Del Villar]; (3) indemnify [Del Villar] moral damages of P1,000,000.00 Pesos and exemplary damages of P1,000,000.00 Pesos, aside from attorney's fees of 10% of sums herein awarded.<sup>[9]</sup>

The Company expectedly appealed to the NLRC.

While the case was still pending appeal before the NLRC, Del Villar received a letter dated April 28, 1998, signed by one Virgilio B. Jimeno for the Company, which read:

Dear Mr. Del Villar:

Presently, the Company is implementing various programs to ensure the accomplishment of its corporate goals and objectives, and to increase the productivity of its workforce.

Since the various programs will affect some of its employees, the Company has initiated a special program called "Project New Start". This program is intended to assist employees whose positions will be declared redundant with the implementation of new distribution systems, utilization of improved operational processes and functional re-organizations.

Your position has been determined as no longer necessary due to the reorganization of the Business Logistics Directorate. The Transportation and Refrigeration Services Department of the Technical Operations Directorate has absorbed your function and our efforts to transfer you to a similar position within the organization have not been successful. Thus, you are considered separated from [the Company] effective May 31, 1998.

Thank you for your kind understanding. We wish you success and God's blessings in all your future undertakings.<sup>[10]</sup>

In a Decision dated February 26, 1999, the NLRC reversed the Labor Arbiter, reasoning that:

Contrary to the Labor Arbiter's pronouncement that [the Company] should have rebutted allegations of bad faith and malice, we are more inclined to apply the presumption of good faith. Mere conclusions of fact and law should not be used as bases for an automatic finding of bad faith. As it is, we do not even see any disclosure of the scam and his alleged demotion. If indeed the so-called "great grandmother of Coca cola scams of 1996" were true, the logical consequence of such disclosure is for the president of the company to dismiss the erring employees and officers for their highly irregular acts and not to penalize [Del Villar] for making such disclosure. This is amply supported by the fact that the [the Company] conducted a thorough investigation of the reported scam and even obtained the services of an independent auditor to determine whether the alleged anomalous transactions were actually irregular and/or questionable. This manifests that [Del Villar's] disclosure was taken seriously contrary to his claims of discrimination. Accordingly, it cannot be said that the act of the [Company] was retaliatory or penal in nature nor tainted with bad faith and/or malice. Otherwise, [the Company] would not have given grave attention to the disclosure of [Del Villar].

On the issue of whether there was a demotion, we are of the view that it was improper to conclude that [Del Villar's] movement from the position of Transportation Services Manager to Staff Assistant to the Corporate Purchasing and Materials Control Manager necessarily indicated a demotion. The records show that there was no diminution of salary. While it appears that his transportation benefits were withheld, it does not follow that his position as Staff Assistant is inferior to that of a Transportation Services Manager. We take notice of the fact that certain positions in a company involve traveling from one place to another, hence the necessity to provide for a car, and related benefits like allowances for gasoline and maintenance. A company cannot, however, be reasonably expected to provide the same benefits to an employee whose position for example, requires that he stays in the office during working hours. Benefits, privileges and perquisites that attach to a certain position do