567 Phil. 342

THIRD DIVISION

[G.R. No. 159625, January 31, 2008]

COCA-COLA BOTTLERS PHILIPPINES, INC., Petitioner, vs. VALENTINA GARCIA, Respondent.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated September 24, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 51794 and the CA Resolution[2] dated July 25, 2003 which denied petitioner's Motion for Partial Reconsideration.

The factual background of the case is as follows:

On December 1, 1988, Coca-Cola Bottlers Philippines, Inc. (petitioner) hired Valentina G. Garcia (respondent) as Quality Control Technician on probationary status. She was assigned at petitioner's Tacloban plant. On June 1, 1989 she became a regular employee. She was the most junior among the personnel in the Quality Control Department (Department).

In the middle of 1989, petitioner adopted some modernization programs which resulted in increased efficiency and production. Likewise, the work load of their employees was substantially reduced. As a result, one employee in the Department became redundant. Under the Collective Bargaining Agreement (CBA) and Article 283 of the Labor Code, respondent, as the most junior employee of the Department could be validly terminated. However, instead of terminating respondent on ground of redundancy, petitioner decided to assign her to its Iloilo plant.

Thus, sometime in April 1990, petitioner informed respondent that she would be transferred to the Iloilo plant for being an excess or redundant employee in the Tacloban plant. Respondent refused to be transferred. Through her Union, she brought the matter to their grievance machinery. Meanwhile, petitioner pushed through with respondent's transfer. On June 26, 1990, petitioner gave respondent notice of her transfer to take effect on July 2, 1990. Yet, on said date, respondent reported for work at the Tacloban plant. The security guard refused her entry.

Records show that on June 17, 1991, or almost one year after she was refused entry, respondent filed a complaint for illegal dismissal with Regional Arbitration Branch No. VIII, Tacloban City, National Labor Relations Commission (NLRC).

In its Position Paper, petitioner denied that respondent was illegally dismissed and countered that it gave respondent her transfer notice on June 26, 1990, giving her until June 30, 1990 to transfer to Iloilo. Petitioner claims that respondent ignored said notice; that when the Iloilo plant could no longer wait for respondent, petitioner

decided to serve her notice of dismissal on July 13, 1990 for abandonment of work.

On August 15, 1995, the Labor Arbiter (LA) rendered a Decision[3] finding that respondent was illegally dismissed which petitioner appealed.

On September 26, 1996, the NLRC rendered a Decision[4] reversing the decision of the LA. It held that there was a valid transfer since the mobility clause in petitioner's employment contract was valid; and because petitioner refused to be transferred, she was considered to have abandoned her work. Respondent's Motion for Reconsideration was denied by the NLRC in a Resolution dated November 25, 1996.

Respondent then filed with this Court a Petition for *Certiorari*[5] which was referred to the CA pursuant to *St. Martin Funeral Homes v. National Labor Relations Commission.*[6]

On September 24, 2002, the CA rendered a Decision[7] partially granting the petition. While the CA held that abandonment of work was a just cause to effect respondent's dismissal, it found that the dismissal was ineffectual since it did not comply with due process requirements, as petitioner received only the notice of her dismissal on the ground of abandonment, and she was not given the initial notice of her impending dismissal or the chance to explain her side. It held petitioner liable for backwages from the time respondent was dismissed up to the finality of the decision, in accordance with *Serrano v. National Labor Relations Commission.*[8]

Petitioner and respondent filed their respective motions for partial reconsideration.[9] Respondent questioned the CA's finding that she abandoned her work. Petitioner, for its part, assailed the CA's pronouncement that it failed to observe due process, arguing that it sent several notices to respondent's last known address. On July 25, 2003, the CA issued a Resolution[10] denying the motions for partial reconsideration.

Hence, the present petition anchored on the following grounds:

I

> THE COURT OF APPEALS HAS DECIDED IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT, WHEN IT RULED THAT PETITIONER FAILED TO OBSERVE DUE PROCESS IN TERMINATING RESPONDENT, DESPITE THE UNCONTROVERTED FACT THAT SEVERAL NOTICES WERE SENT TO RESPONDENT'S LAST KNOWN ADDRESS BUT WERE RETURNED UNSERVED DUE TO CAUSES SOLELY ATTRIBUTABLE TO RESPONDENT HERSELF.

II

> THE COURT OF APPEALS HAS DECIDED IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT, WHEN IT RETROACTIVELY APPLIED THE "SERRANO DOCTRINE" TO THE INSTANT CASE WHICH WAS ALREADY PENDING BEFORE SUCH

DOCTRINE WAS PROMULGATED BY THE HONORABLE SUPREME COURT. [11]

Petitioner argues that since respondent was terminated on the ground of abandonment of work, the sending of several notices to respondent's last known address informing her of the charges against her and giving her an opportunity to explain her side was sufficient compliance with due process; that it cannot be held liable for violation of due process when the notices were returned unserved due to causes solely attributable to the respondent herself; that the *Serrano* doctrine is inapplicable since it was superseded by *Agabon v. National Labor Relations Commission*[12] which ruled that a violation of an employee's statutory right to two notices prior to the termination of employment for just cause entitles such dismissed employee to *nominal damages* only, not payment of full backwages.

Respondent, on the other hand, contends that the records of the case would show that she did not abandon her work nor did she have any intention to abandon her work or sever the employer-employee relationship; that her termination was actually an illegal scheme on the part of petitioner to correct certain personnel lapses; that she was dismissed without due process; and that petitioner is obliged to pay backwages.

Petitioner avers that respondent, in raising the issue of the legality of her termination in her Comment, cannot be allowed to seek affirmative relief from the Court since the CA's ruling thereon had already become final for her failure to appeal therefrom.

The Court agrees with petitioner that respondent can no longer seek a review of the CA's ruling on the validity of her termination from employment on the ground of abandonment of work. Records do not show that respondent appealed from the CA decision. For failure to appeal the decision of the CA to this Court, respondent cannot obtain any affirmative relief other than that granted in the decision of the CA. That decision of the CA on the validity of her termination has become final as against her and can no longer be reviewed, much less reversed, by this Court.

It is well-settled that a party who has not appealed from a decision cannot seek any relief other than what is provided in the judgment appealed from.[13] An appellee who has himself not appealed may not obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court below.[14] The appellee can only advance any argument that he may deem necessary to defeat the appellant's claim or to uphold the decision that is being disputed, and he can assign errors in his brief if such is required to strengthen the views expressed by the court *a quo.*[15] These assigned errors in turn may be considered by the appellate court solely to maintain the appealed decision on other grounds, but not for the purpose of reversing or modifying the judgment in the appellee's favor and giving him other reliefs.[16]

Consequently, the sole issue for resolution in the present petition is whether respondent was accorded procedural due process before her separation from work.

The answer is in the negative.