

## SECOND DIVISION

[ G.R. No. 170287, February 14, 2008 ]

**ALABANG COUNTRY CLUB, INC., Petitioner, vs. NATIONAL LABOR RELATIONS COMMISSION, ALABANG COUNTRY CLUB INDEPENDENT EMPLOYEES UNION, CHRISTOPHER PIZARRO, MICHAEL BRAZA, and NOLASCO CASTUERAS, Respondents.**

### DECISION

#### **VELASCO JR., J.:**

Petitioner Alabang Country Club, Inc. (Club) is a domestic non-profit corporation with principal office at Country Club Drive, Ayala Alabang, Muntinlupa City. Respondent Alabang Country Club Independent Employees Union (Union) is the exclusive bargaining agent of the Club's rank-and-file employees. In April 1996, respondents Christopher Pizarro, Michael Braza, and Nolasco Castueras were elected Union President, Vice-President, and Treasurer, respectively.

On June 21, 1999, the Club and the Union entered into a Collective Bargaining Agreement (CBA), which provided for a Union shop and maintenance of membership shop.

The pertinent parts of the CBA included in Article II on Union Security read, as follows:

#### **ARTICLE II UNION SECURITY**

SECTION 1. CONDITION OF EMPLOYMENT. All regular rank-and-file employees, who are members or subsequently become members of the UNION shall maintain their membership in good standing as a condition for their continued employment by the CLUB during the lifetime of this Agreement or any extension thereof.

SECTION 2. [COMPULSORY] UNION MEMBERSHIP FOR NEW REGULAR RANK-AND-FILE EMPLOYEES

- a) New regular rank-and-file employees of the Club shall join the UNION within five (5) days from the date of their appointment as regular employees as a condition for their continued employment during the lifetime of this Agreement, otherwise, their failure to do so shall be a ground for dismissal from the CLUB upon demand by the UNION.
- b) The Club agrees to furnish the UNION the names of all new probationary and regular employees covered by this Agreement not later than three (3) days from the date of

regular appointment showing the positions and dates of hiring.

x x x x

SECTION 4. TERMINATION UPON UNION DEMAND. Upon written demand of the UNION and after observing due process, the Club shall dismiss a regular rank-and-file employee on any of the following grounds:

- (a) Failure to join the UNION within five (5) days from the time of regularization;
- (b) Resignation from the UNION, except within the period allowed by law;
- (c) Conviction of a crime involving moral turpitude;
- (d) Non-payment of UNION dues, fees, and assessments;
- (e) Joining another UNION except within the period allowed by law;
- (f) **Malversation of union funds;**
- (g) Actively campaigning to discourage membership in the UNION; and
- (h) Inflicting harm or injury to any member or officer of the UNION.

It is understood that the UNION shall hold the CLUB free and harmless [sic] from any liability or damage whatsoever which may be imposed upon it by any competent judicial or quasi-judicial authority as a result of such dismissal and the UNION shall reimburse the CLUB for any and all liability or damage it may be adjudged.<sup>[1]</sup> (Emphasis supplied.)

Subsequently, in July 2001, an election was held and a new set of officers was elected. Soon thereafter, the new officers conducted an audit of the Union funds. They discovered some irregularly recorded entries, unaccounted expenses and disbursements, and uncollected loans from the Union funds. The Union notified respondents Pizarro, Braza, and Castueras of the audit results and asked them to explain the discrepancies in writing.<sup>[2]</sup>

Thereafter, on October 6, 2001, in a meeting called by the Union, respondents Pizarro, Braza, and Castueras explained their side. Braza denied any wrongdoing and instead asked that the investigation be addressed to Castueras, who was the Union Treasurer at that time. With regard to his unpaid loans, Braza claimed he had been paying through monthly salary deductions and said the Union could continue to deduct from his salary until full payment of his loans, provided he would be reimbursed should the result of the initial audit be proven wrong by a licensed auditor. With regard to the Union expenses which were without receipts, Braza explained that these were legitimate expenses for which receipts were not issued, e.g. transportation fares, food purchases from small eateries, and food and transportation allowances given to Union members with pending complaints with the Department of Labor and Employment, the National Labor Relations Commission (NLRC), and the fiscal's office. He explained that though there were no receipts for these expenses, these were supported by vouchers and itemized as expenses. Regarding his unpaid and unliquidated cash advances amounting to almost PhP 20,000, Braza explained that these were not actual cash advances but payments to a certain Ricardo Ricafrente who had loaned PhP 200,000 to the Union.<sup>[3]</sup>

Pizarro, for his part, blamed Castueras for his unpaid and uncollected loan and cash advances. He claimed his salaries were regularly deducted to pay his loan and he did not know why these remained unpaid in the records. Nonetheless, he likewise agreed to continuous salary deductions until all his accountabilities were paid.<sup>[4]</sup>

Castueras also denied any wrongdoing and claimed that the irregular entries in the records were unintentional and were due to inadvertence because of his voluminous work load. He offered that his unpaid personal loan of PhP 27,500 also be deducted from his salary until the loans were fully paid. Without admitting any fault on his part, Castueras suggested that his salary be deducted until the unaccounted difference between the loans and the amount collected amounting to a total of PhP 22,000 is paid.<sup>[5]</sup>

Despite their explanations, respondents Pizarro, Braza, and Castueras were expelled from the Union, and, on October 16, 2001, were furnished individual letters of expulsion for malversation of Union funds.<sup>[6]</sup> Attached to the letters were copies of the *Panawagan ng mga Opisyaes ng Unyon* signed by 37 out of 63 Union members and officers, and a Board of Directors' Resolution<sup>[7]</sup> expelling them from the Union.

In a letter dated October 18, 2001, the Union, invoking the Security Clause of the CBA, demanded that the Club dismiss respondents Pizarro, Braza, and Castueras in view of their expulsion from the Union.<sup>[8]</sup> The Club required the three respondents to show cause in writing within 48 hours from notice why they should not be dismissed. Pizarro and Castueras submitted their respective written explanations on October 20, 2001, while Braza submitted his explanation the following day.

During the last week of October 2001, the Club's general manager called respondents Pizarro, Braza, and Castueras for an informal conference inquiring about the charges against them. Said respondents gave their explanation and asserted that the Union funds allegedly malversed by them were even over the total amount collected during their tenure as Union officers—PhP 120,000 for Braza, PhP 57,000 for Castueras, and PhP 10,840 for Pizarro, as against the total collection from April 1996 to December 2001 of only PhP 102,000. They claimed the charges are baseless. The general manager announced he would conduct a formal investigation.

Nonetheless, after weighing the verbal and written explanations of the three respondents, the Club concluded that said respondents failed to refute the validity of their expulsion from the Union. Thus, it was constrained to terminate the employment of said respondents. On December 26, 2001, said respondents received their notices of termination from the Club.<sup>[9]</sup>

Respondents Pizarro, Braza, and Castueras challenged their dismissal from the Club in an illegal dismissal complaint docketed as NLRC-NCR Case No. 30-01-00130-02 filed with the NLRC, National Capital Region Arbitration Branch. In his January 27, 2003 Decision,<sup>[10]</sup> the Labor Arbiter ruled in favor of the Club, and found that there was justifiable cause in terminating said respondents. He dismissed the complaint for lack of merit.

On February 21, 2003, respondents Pizarro, Braza, and Castueras filed an Appeal

docketed as NLRC NCR CA No. 034601-03 with the NLRC.

On February 26, 2004, the NLRC rendered a Decision<sup>[11]</sup> granting the appeal, the *fallo* of which reads:

WHEREFORE, finding merit in the Appeal, judgment is hereby rendered declaring the dismissal of the complainants illegal. x x x Alabang Country Club, Inc. and Alabang Country Club Independent Union are hereby ordered to reinstate complainants Christopher Pizarro, Nolasco Castueras and Michael Braza to their former positions without loss of seniority rights and other privileges with full backwages from the time they were dismissed up to their actual reinstatement.

SO ORDERED.

The NLRC ruled that there was no justifiable cause for the termination of respondents Pizarro, Braza, and Castueras. The commissioners relied heavily on Section 2, Rule XVIII of the Rules Implementing Book V of the Labor Code. Sec. 2 provides:

SEC. 2. Actions arising from Article 241 of the Code. – Any action arising from the administration or accounting of union funds shall be filed and disposed of as an intra-union dispute in accordance with Rule XIV of this Book.

In case of violation, the Regional or Bureau Director shall order the responsible officer to render an accounting of funds before the general membership and may, where circumstances warrant, mete the appropriate penalty to the erring officer/s, including suspension or expulsion from the union.<sup>[12]</sup>

According to the NLRC, said respondents' expulsion from the Union was illegal since the DOLE had not yet made any definitive ruling on their liability regarding the administration of the Union's funds.

The Club then filed a motion for reconsideration which the NLRC denied in its June 20, 2004 Resolution.<sup>[13]</sup>

Aggrieved by the Decision and Resolution of the NLRC, the Club filed a Petition for Certiorari which was docketed as CA-G.R. SP No. 86171 with the Court of Appeals (CA).

### **The CA Upheld the NLRC Ruling that the Three Respondents were Deprived Due Process**

On July 5, 2005, the appellate court rendered a Decision,<sup>[14]</sup> denying the petition and upholding the Decision of the NLRC. The CA's Decision focused mainly on the Club's perceived failure to afford due process to the three respondents. It found that said respondents were not given the opportunity to be heard in a separate hearing as required by Sec. 2(b), Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code, as follows:

SEC. 2. **Standards of due process; requirements of notice.**—In all cases of termination of employment, the following standards of due process shall be substantially observed:

For termination of employment based on just causes as defined in Article 282 of the Code:

x x x x

(b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him.

The CA also said the dismissal of the three respondents was contrary to the doctrine laid down in *Malayang Samahan ng mga Manggagawa sa M. Greenfield v. Ramos (Malayang Samahan)*, where this Court ruled that even on the assumption that the union had valid grounds to expel the local union officers, due process requires that the union officers be accorded a separate hearing by the employer company.<sup>[15]</sup>

In a Resolution<sup>[16]</sup> dated October 20, 2005, the CA denied the Club's motion for reconsideration.

The Club now comes before this Court with these issues for our resolution, summarized as follows:

1. Whether there was just cause to dismiss private respondents, and whether they were afforded due process in accordance with the standards provided for by the Labor Code and its Implementing Rules.
2. Whether or not the CA erred in not finding that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that respondents Pizarro, Braza, and Castueras were illegally expelled from the Union.
3. Whether the case of *Agabon vs. NLRC*<sup>[17]</sup> should be applied to this case.
4. Whether that in the absence of bad faith and malice on the part of the Club, the Union is solely liable for the termination from employment of said respondents.

The main issue is whether the three respondents were illegally dismissed and whether they were afforded due process.

The Club avers that the dismissal of the three respondents was in accordance with the Union security provisions in their CBA. The Club also claims that the three respondents were afforded due process, since the Club conducted an investigation separate and independent from that conducted by the Union.

Respondents Pizarro, Braza, and Castueras, on the other hand, contend that the