

THIRD DIVISION

[G.R. NO. 169600, June 26, 2007]

**MARIVAL TRADING, INC., VIRGINIA A. MANUEL AND BEATRICE
A. MANUEL, PETITIONERS, VS. NATIONAL LABOR RELATIONS
COMMISSION (NLRC) AND MA. VIANNEY D. ABELLA,
RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks to reverse the Decision^[1] dated 30 June 2005 of the Court of Appeals in CA-G.R. SP No. 87820 entitled, "*Ma. Vianney D. Abella v. National Labor Relations Commission, Marival Trading, Inc., Virginia A. Manuel and Beatriz A. Manuel*," which affirmed with modifications the Decision of the National Labor Relations Commission (NLRC) dated 10 September 2002 and the Decision of the Labor Arbiter dated 30 May 2001. The Labor Arbiter ruled and was affirmed by the NLRC, that while the disorderly behavior of herein private respondent Ma. Vianney D. Abella (Abella) should not have gone unpunished, such infraction should not be vested with the extreme penalty of dismissal; thus, he ordered the reinstatement of Abella to her former position without backwages, as well as the payment of her proportionate 13th month pay and unpaid salaries for the year 2000. On Appeal, the Court of Appeals categorically found that Abella's misconduct was not so gross as would warrant her dismissal, and awarded her backwages and attorney's fees.

The facts of the case are as follows:

Abella worked as chemist/quality controller at herein petitioner Marival Trading Inc. (Marival), for almost eight years. Marival is a corporation engaged in the production, distribution and sale of veterinary products, while petitioners Virginia and Beatriz Manuel are its President and Vice President (VP)-Personnel, respectively.

On 14 July 2000, Ma. Roxanne A. Manuel (Manuel), Vice President and General Manager of Marival, conducted a staff meeting together with the other officers of the company, Gregorio Albeza (Albeza) and Ma. Claire Distor (Distor), packaging supervisor and importation manager, respectively. After the meeting, Manuel asked Albeza and Distor to stay behind to discuss other matters. She requested two male employees to move some tables and placed Abella's belongings on one of these tables. Apparently, while the rearrangement of the tables was going on, Abella was not in the room. She came in when Manuel, Albeza, and Distor were already having their own meeting. While Abella was attending to her things, her shoulder bag fell loudly on the floor, disrupting the officers' meeting. Manuel approached Abella to ask what the problem was and the latter expressed her resentment over the fact that the employees were not informed first before their tables were moved. Manuel asked Abella to leave the room but she refused to do so. It was only upon Albeza's

prodding that Abella later left the room. Abella then stayed in the laboratory for the rest of the afternoon.

Three days later, Abella received a memo from Manuel directing her to explain within 24 hours why no disciplinary action should be imposed for her disrespectful insubordination and unprofessional conduct. The memorandum reads:

On July 14, 2000, as a result of the physical rearrangement of the tables, you behaved in a most disrespectful insubordination and unprofessional manner towards me.

This incident which lasted approximately for fifteen to twenty minutes (15-20 minutes) was witnessed by Ms. Claire Distor, Jenny Samson and George Albeza.

In this regard you are hereby directed to explain within 24 hours from receipt of this letter why no disciplinary action should be imposed on you for insubordination.^[2]

In her response, Abella denied^[3] the accusations against her. She clarified that her shoulder bag accidentally fell to the floor, and such should not have caused any offense to the officers present at the meeting. She maintained that she aired her side regarding the table rearrangement in a tactful and courteous manner; that the order for her to get out of the room was unjustified; and that her freedom to lawfully air her grievance in relation to her security of tenure at work should be respected.

Unconvinced by the explanation and finding no justifiable reason for the employee's outburst, Marival, through a letter signed by Beatriz Manuel/VP-Personnel, fired Abella on 21 July 2000.

Thus, Abella filed a complaint for illegal dismissal with the Labor Arbiter, alleging that she was dismissed from work without just cause and without due process. She prayed for reinstatement with full backwages and without loss of seniority rights and other benefits including payment of her unpaid salary for 16-24 July 2000 and damages, among other claims.

The parties failed to settle the matter amicably, and both submitted their position papers presenting their respective narrations of the incident.

Abella's position paper, in gist, reiterated the contents of her letter to Manuel and challenged the severity of the penalty imposed upon her. She questioned the version of events as narrated by Manuel:

Ms. Manuel's version was that after the rearrangement of the tables and during the meeting with the officers, they were all startled by Ms. Abella's banging of folders and papers on her desk and the forceful throwing of her shoulder bag. She approached Ms. Abella and asked if there was a problem. The latter sneered and rudely answered, "*Sana naman next time na uurungin yung gamit namin eh, sasabihin muna sa amin.*" The superior, piqued by this remark, told her, "I can do anything I want with the things in this office, it's a company property and I am the owner of

the company. As far as I am concerned the only personal belonging you have in this office is your shoulder bag and I did not touch it. What you're doing to me is insubordination." Ms. Abella returned to her desk and resumed her defiant table-banging to which Ms. Manuel asked, "*Anong ipinagdadabog mo?*" The former retorted, "*Eh sa nahulog yung bag ko, anong magagawa ko?*" Ms. Manuel at that moment asked her to get out of the office, and Mr. Albeza had to persuade the latter to leave. The respondent's side of the story regarding the employee's demeanor was supported by Mr. Albeza and Ms. Distor, both of whose affidavits were attached to the employer's position paper.^[4]

Abella presented her own version of events in a verified Joint Reply and Counter-Affidavit signed by her and her officemates, Rosemarie Cruz and Jenny Samson, which states that:

They claimed therein, *inter alia*, that [Abella's] shoulder bag indeed just fell on the floor and that [Abella] was never arrogant. Her comment was politely delivered to their superior and in fact, it was Ms. Manuel who was the angry and hysterical (sic), telling [Abella], "*umalis ka na at ayoko nang makita ang pagmumukha mo,*" to which the latter (sic) immediately left. Rosemarie Cruz likewise asserted that Ms. Manuel, who was fuming mad, bluntly told her, "*ang kakapal ng mukha ninyo, lahat na ng paraan ginawa ko para umalis lang kayo sa trabaho at bakit ayaw pa ninyong umalis.*" They all opined that this is an orchestrated, clever, and convenient ploy to dismiss them, especially [Abella].^[5]

On 30 May 2001, the Labor Arbiter ruled that Marival had grounds to take disciplinary action against Abella, but since this is Abella's first offense, the Labor Arbiter considered the penalty of dismissal too severe and ordered her reinstatement to her former position. The dispositive portion of the Labor Arbiter's decision reads:

Wherefore, judgment is hereby rendered ordering [Marival] to reinstate [Abella] to her former position but without backwages.

[Marival] are also ordered to pay [Abella] her proportionate 13th month pay and unpaid salaries for the year 2000.

All other claims are dismissed for lack of merit.^[6]

Unsatisfied, Abella appealed her case to the NLRC. She insisted that the table rearrangement incident was not work-related and that no grave misconduct or willful disobedience can be imputed to her; hence, she likewise deserves backwages, appropriate damages and attorney's fees.

On 10 September 2002, the NLRC dismissed Abella's partial appeal and held that her act constituted serious misconduct. While the NLRC upheld the Labor Arbiter that Abella was disrespectful to her superior and that her act constituted serious misconduct, it nevertheless agreed with the finding of the Labor Arbiter that such act do not constitute sufficient ground for dismissal. Pertinent portion of the NLRC Decision is hereby reproduced, to wit:

To begin with, the Arbiter a quo was well within his parameters when he denied [Abella] the award of backwages although he ordered her reinstatement. A judicious examination of the evidences on record shows that [Abella] was indeed seriously disrespectful to her superior. The meeting being held by [Manuel] would not be disturbed by the mere accidental drop of [Abella]'s bag on the floor. As [Manuel] claimed which was corroborated by two witnesses, [Abella] kept on banging her things on her desk continuously and answering the latter in a disrespectful manner as a form of resentment to the movement of her desk without her knowledge.

Thus, an employee who utters obscene, insulting or offensive words against a superior may be dismissed. His act is a sufficient ground for dismissal. It is not only destructive of his co-employee's morale and a violation of the company rules and regulations, but also constitute gross misconduct, a ground provided by law for terminating an employee's services. (Asian Design and Manufacturing Corporation vs. Hon. Deputy Minister of Labor, G.R. No. 70552, May 2, 1986).^[7]

A Motion for Reconsideration was filed, but the same was denied in a Resolution dated 27 September 2004. The NLRC, in upholding the Labor Arbiter's finding that Abella was disrespectful to her superior, reasoned:

There is no shadow of doubt that [Abella] was dismissed for serious misconduct which is a valid ground for dismissal. Her attitude at the time she was confronted by Ms. [Roxanne] Manuel, Vice-President of the company, clearly reveals her true worth and character as a person. Instead of showing calmness and respect since the person she is talking (sic) is the Vice-President of the company, [Abella] has exhibited contemptuous acts of discourtesy and insubordination. It is possible that her emotions were at its highest level at that time that she was not able to control herself when she was confronted by [Manuel], but this cannot be considered sufficient justification for her to react that way since the superior occupies a lofty position in the company hierarchy. Clearly, this is a case of insubordination and disrespect of the highest order and for which complainant must suffer the consequences.

x x x x

The contention of [Manuel] that the incident regarding movement of Abella's chair without her consent which happened on July 14, 2000 is not work-related and therefore should not be classified as grave misconduct is entirely out of context and bereft of merit. It should be stressed that this happened within the premises of the respondent company and when on official meeting took place and as such, **there can be no doubt that [Abella] was in the performance of her assigned duties and responsibilities when the confrontation between her and Roxanne Manuel took place.**^[8]

Still feeling aggrieved, Abella appealed to the Court of Appeals alleging that she is likewise entitled to backwages and damages from the time of her dismissal, as the same was without just cause.

On 30 June 2005, the Court of Appeals rendered a Decision affirming with modification the NLRC and the Labor Arbiter's Decisions. The Court of Appeals ruled that Abella's behavior amounted to misconduct and disrespect in violation of company rules, but it was not so gross as to be meted the ultimate penalty of dismissal. The Court of Appeals ruled thus:

WHEREFORE, THE Petition is hereby DENIED and the assailed NLRC Decision and Resolution affirming the Labor Arbiter's decision are hereby **AFFIRMED with the following MODIFICATION, adding that:**

1. Petitioner is awarded 10% on the total monetary judgment as attorney's fees; and
2. Respondent Marival Trading, Inc. is ordered to immediately reinstate Ma. Vianney Abella and pay the salaries due her from May 30, 2001 until her actual reinstatement or until this judgment attains finality.^[9]

A Motion for Reconsideration was filed by Marival, but it was denied in a Resolution dated 5 September 2005.^[10]

Hence, this Petition raising the lone issue, that:

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE ACTS COMMITTED BY PRIVATE RESPONDENT ABELLA CONSTITUTED MERE MISCONDUCT FOR WHICH THE PENALTY OF DISMISSAL WAS TOO SEVERE AND IGNORED THE WELL SETTLED RULE THAT FINDINGS OF FACT OF QUASI JUDICIAL BODIES LIKE THE NLRC, PARTICULARLY WHEN THEY COINCIDE WITH THOSE OF THE LABOR ARBITER ARE ACCORDED WITH RESPECT AND FINALITY IF SUPPORTED BY SUBSTANTIAL EVIDENCE^[11]

This Court denies the petition.

As a preliminary matter, this Court must first address the procedural infirmity ascribed by petitioner to the Court of Appeals when it allegedly ignored the well-settled rule that findings of fact of quasi judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter, are accorded respect and finality if supported by substantial evidence. Petitioners contend that the Court of Appeals should have just affirmed the factual findings of the Labor Arbiter and the NLRC.

It has long been settled in the landmark case of *St. Martin Funeral Home v. National Labor Relations Commission*,^[12] that the mode for judicial review of decisions of the NLRC is by a petition for *certiorari* under Rule 65 of the revised Rules of Civil Procedure. The different modes of appeal, namely, writ of error (Rule 41), petition for review (Rules 42 and 43), and petition for review on *certiorari* (Rule 45), cannot be availed of because there is no provision on appellate review of the NLRC decisions in the Labor Code, as amended.^[13] Although the same case recognizes that both the Court of Appeals and the Supreme Court have original jurisdiction over such petitions, it has chosen to impose the strict observance of the hierarchy of courts. Hence, a petition for *certiorari* of a decision or resolution of the NLRC should first be filed with the Court of Appeals; direct resort to the Supreme Court shall not