

SECOND DIVISION

[G.R. NO. 158758, April 29, 2005]

**P.J. LHUILLIER INC. AND PHILIPPE J. LHUILLIER, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION AND HERMINIA
MONTENEGRO, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

The instant petition seeks to annul the 29 August 2002 Decision^[1] of the Court of Appeals and its Resolution^[2] dated 06 June 2003 affirming the 20 November 2000 decision^[3] of the National Labor Relations Commission (NLRC) and its Resolution^[4] dated 11 July 2001 in the case NLRC NCR CA No. 021288-99. The NLRC Decision in turn partially affirmed the 21 July 1999 Decision^[5] of Labor Arbiter Nieves V. De Castro in NLRC NCR Case No. RAB-IV-2-9720-98-B entitled, "Vincent Montenegro, et al. v. P.J. Lhuillier, Inc./Philippe Lhuillier."

The circumstances which led to herein private respondent's dismissal are narrated hereunder:

Initially, four employees of herein petitioner company namely: Vincent "Vicente" Montenegro, appraiser/manager; Herminia Montenegro, supervising district manager; Carlos Pedro Sara, appraiser/branch manager; and Marites Noble, branch manager/appraiser, collectively filed a case for illegal dismissal before the Labor Arbiter against herein petitioners.

Vincent "Vicente" Montenegro was the appraiser/manager of the petitioner corporation's Bauan Branch in Batangas. Lailanie Palma, a trainee of the company, charged him with sexual harassment. A committee was formed to investigate him for the alleged sexual harassment. On the basis of the formal investigation conducted, the Chairman of the Investigation Committee issued a Notice of Disciplinary Action dated 06 September 1997 wherein said employee was meted a ten (10)-day suspension and transfer of assignment to the CLH-Zobel Branch, Makati City, effective the next working day from receipt thereof for violation of Section 9 of the Handbook on Company Policies and Guidelines and Employee's Code of Conduct, with a warning that a repetition of said violation will be penalized with the supreme sanction of dismissal. Vincent Montenegro claims that for the sexual harassment case, he was meted 35 days suspension which he contends is a violation of the 30-day suspension. Thereafter, he was transferred to Makati.

Herminia Montenegro was charged with dishonest acts committed by causing the redemption of two (2) pieces of jewelry specifically described in pawn tickets 008664 and 008665, allegedly, through the use of falsified affidavit of loss. A formal administrative investigation was conducted on 15 October 1997. Findings of said

investigation showed that respondent Herminia Montenegro committed dishonesty and misconduct violative of Rule 22, Section 2 of the Handbook on Company Policies, hence, she was dismissed from employment. Herminia Montenegro averred, however, that her only participation was the approval of the redemption of the pawned items by a certain Agnes Moradas who submitted an affidavit of loss of pawnshop tickets.

Carlos Pedro Sara was charged with incompetence and dishonesty. During the administrative investigation conducted on 05 December 1997, the investigating committee reported that Sara admitted having intentionally overweighed an item in favor of a customer but the report about which he refused to sign. It was also discovered that Sara was directly responsible for the loss of certain jewelry as disclosed in an audit report.

Marites Noble was charged with having involved in the over-appraisal of an item and having accepted a gold plated item. She claims that she had to accept the over-appraised item to attract customers as the branch has just opened. As for the fake item she accepted, Noble avers that the item is so thickly plated that it could not be detected by merely applying the usual procedure. During the formal investigation conducted on 05 December 1997, it was discovered and admitted by Noble that she intentionally over-appraised the subject pawned fake item by increasing their true weights. Later, it turned out that the fake items belong to Noble herself.

The dispositive portion of the Labor Arbiter's decision reads as follows:

WHEREFORE, respondents are hereby directed to reinstate:

1. Vincent Montenegro to his former position at the Bauan Branch effective August 1, 1999 and pay him full backwages in the amount of P173,687.50;
2. Herminia Montenegro to her former position in Batangas/Taal Area effective August 1, 1999 and to pay her full backwages in the amount of P228,562.50;
3. Carlos Sara to his former position at the Lemery, Batangas-Branch effective August 1, 1991 (sic) and to pay him full backwages in the amount of P166,075.00;
4. Marites Noble to her former position effective August 1, 1991 (sic) and to her (sic) pay her partial backwages in the amount of P155,691.25.^[6]

From the decision of the Labor Arbiter, the company appealed to the NLRC. The said commission rendered a decision, to wit:

WHEREFORE, the decision of the Labor Arbiter *a quo* is hereby REVERSED and SET ASIDE with respect to complainants VICENTE MONTENEGRO, MARITES NOBLE and CARLOS SARA. The case of constructive dismissal and illegal dismissal filed by them respectively are hereby DISMISSED.

However, with respect to complainant MS. HERMINIA MONTENEGRO, the findings of the Labor Arbiter stand and she is entitled to reinstatement

with backwages. Considering the strained relations between the parties, in lieu of reinstatement, she is entitled to separation pay computed at one half (1/2) month salary for every year of service, a fraction of six (6) months shall be computed as one full year. Receiving a salary of P10,620.00 based on her complaint, her separation pay is computed at P37,170.00.^[7]

The parties thereafter filed their respective motions for reconsideration. For her part, Herminia Montenegro moved to have the part of the said decision awarding her separation pay computed at one-half (1/2) month salary for every year of service be reconsidered.

On 11 July 2001, the NLRC issued a resolution denying the motion of the complainant employees. It held that:

Finding no palpable or patent error committed to warrant the modification and/or reversal of the same, complainants' Motion for Reconsideration is hereby *DENIED* for lack of merit.^[8]

Thereafter, the petitioners filed a Petition for Certiorari, under Rule 65 of the Revised Rules of Court, before the Court of Appeals, questioning the NLRC Decision only insofar as the declaration of illegality of Herminia Montenegro's dismissal is concerned. Vincent Montenegro, Carlos Pedro Sara and Marites Noble for their part, however, failed to elevate to the appellate court the decision of the commission which dismissed their complaint altogether. The dismissal of their complaint, thus, attained finality.

The petitioners maintained that the NLRC erred in affirming the finding of illegal dismissal with respect to Herminia Montenegro because of the following reasons:

The Labor Arbiter failed to examine and appreciate the most material evidence: the stark difference in the signature appearing in the Affidavit of Loss and in the pertinent pawnshop tickets.

Even the naked eye can detect the difference and even a feeble mind can conclude that the signature in the affidavit of Loss and in the pawnshop tickets were not made by one and the same person.

If MS. MONTENEGRO was not the one who caused the falsification of such Affidavit of Loss, then she must have detected such discrepancy because she alleged that she was the one who reviewed and approved the redemption of subject items of jewelry. The motive for the redemption by complainant is understandable. Once redeemed, the subject items of jewelry can be sold at a much higher price vis a vis the appraisal value for loan granted including interest. Thus, the one who redeemed would reap a windfall from the sale.

MS. MONTENEGRO was thus dismissed primarily due to dishonest and fraudulent acts constituting willful breach of trust on her part and resulting to loss of confidence on the part of respondent corporation. MS. MONTENEGRO, through the use of fake Affidavit of loss effected the redemption of certain pieces of jewelry which should could (sic) have the properties of respondent corporation.

On 29 August 2002, the Court of Appeals rendered a Decision affirming the findings of the NLRC, to wit:

WHEREFORE, premises considered, the Resolution of the National Labor Relations Commission dated November 20, 2000 in NLRC Case No. RAB IV 2-9720-98-B is hereby AFFIRMED.^[9]

Their motion to reconsider the said decision having been denied in the Court of Appeals Resolution of 06 June 2003, petitioners filed the instant petition for review predicated on the following grounds:

I.

WHETHER OR NOT THE COURT OF APPEALS PATENTLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT SUSPENDING FIRST THE PROCEEDINGS AND IN NOT AWAITING FOR THE RESOLUTION OF THE MOTION FOR RECONSIDERATION OF HEREIN PETITIONERS WHICH IS STILL PENDING AT THE NLRC.

II.

WHETHER OR NOT, WITHOUT PREJUDICE TO THE RESOLUTION OF THE FIRST ASSIGNMENT OF ERROR, THE COURT OF APPEALS PATENTLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN OUTRIGHTLY DISREGARDING THE FINDINGS OF PETITIONER'S INVESTIGATING COMMITTEE DESPITE JURISPRUDENCE REQUIRING ONLY SUBSTANTIAL DEGREE OF PROOF AND IN FINDING CONTRARY TO THE FACTS OF THE CASE, THE LAW AND PERTINENT JURISPRUDENCE THAT RESPONDENT'S TERMINATION OF EMPLOYMENT WAS ILLEGAL AND THAT RESPONDENTS (SIC) IS ENTITLED TO BACKWAGES AND OTHER BENEFITS.

As to the first issue, the petitioners assert that "in accord with due process, the proceedings of this case should await the resolution of the Motion for Reconsideration filed by Petitioners at the NLRC in connection with its Appeals thereto."^[10]

Their position is untenable.

Firstly, petitioners willingly, nay, purposely placed themselves under the jurisdiction of the Court of Appeals by filing a Petition for Certiorari and prayed for reversal and setting aside of the Decision and Resolution rendered by the NLRC due to the latter's alleged grave abuse of discretion amounting to lack or excess of jurisdiction. When they were denied the prayer which they sought, they cannot now be allowed to question the Court *a quo's* adverse decision and demand that the case be remanded to the NLRC to await the resolution of the Motion for Reconsideration that they filed.

Secondly, the petitioners are not proscribed from filing another petition for *certiorari* before the Court of Appeals when the NLRC finally resolves their motion for reconsideration and the situation so warrants.

This Court frowns on the practice of a party's submitting his case for consideration

and then accepting the ruling only if favorable, while attacking it for any reason under the sun if it is not to his liking. The party is barred from such conduct not because the judgment or order of the court is valid and conclusive as adjudication, but for the reason that such practice cannot be tolerated for reasons of public policy.

[11] Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court.[12] The principle of estoppel squarely applies here. The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon.[13]

Anent the second issue, the petitioners contend that they lost confidence on the respondent as supervising district manager when the latter caused the redemption of two pieces of jewelry through the use of falsified affidavit of loss, or, if she was not the one who caused the falsification, for her failure to detect the discrepancy because it was her job to review and approve the redemption of jewelry. They maintain that "the ruling of the Court of Appeals in this regard clearly adopted the view that the degree of proof be beyond reasonable doubt,"[14] when, on the contrary, "it should be only substantial in accord with the ruling of the Supreme Court in *Ang Tibay v. CIR* [15] that in administrative cases substantial evidence is sufficient." [16] Furthermore, they stressed that the Court of Appeals failed to appreciate "the benefit that accrued to Respondent MONTENEGRO, that armed with an Affidavit of Loss, she can now redeem the jewelry and sell it at market price which is always much higher than the loan value and that instead of the company profiting from the failure of the pawner to redeem, it is Respondent MONTENEGRO who shall profit." [17]

Conversely, the Court of Appeals held that ". . . granting that there is disparity between the signatures appearing in the pawnshop tickets and the affidavit of loss presented, this alone would not suffice to justify dismissal on the ground of loss of trust and confidence in the absence of proof." [18] It declared that "[t]here was no evidence presented by petitioners that would prove respondent's interest or benefit gained from the redeemed items. It was not also proven that respondent had knowledge or participation in the preparation or execution of said affidavit. Mere accusations will not suffice." [19]

The petition is devoid of merit.

At the onset, it is pertinent to note that the second issue raised in the instant petition inquires into the factual findings of the court *a quo*. The petitioners are fundamentally raising a question of fact regarding the appellate court's finding that the charge of falsification was not substantially proved. The petitioner would have us sift through the evidence on record and pass upon whether the signatures found on the Affidavit of Loss vis-à-vis the pawn tickets are similar or not. This clearly involves a factual inquiry, the determination of which is the statutory function of the NLRC. [20]

Elementary is the principle that this court is not a trier of facts. Judicial review of labor cases does not go beyond the evaluation of the sufficiency of the evidence