G.R. No. 152514

FIRST DIVISION

[G.R. NO. 152514, August 12, 2005]

LIMKETKAI SONS MILLING, INC. AND/OR ALFONSO U. LIM, ALBINO U. LIMKETKAI AND ENGR. LORENZO U. LIMKETKAI, PETITIONERS, VS. EDITHA C. LLAMERA, RESPONDENT.

D E C I S I O N

QUISUMBING, J.:

On petition for review is the **Decision,**[1] dated May 23, 2001, of the Court of Appeals and its **Resolution**,[2] dated February 5, 2002, in CA-G.R. SP No. 50327. The appellate court had affirmed with modification the **Resolutions,**[3] dated February 25, 1997, and March 25, 1997, of the National Labor Relations Commission in NLRC CA No. M-003295-97, which reversed the Labor Arbiter's **Decision,**[4] dated December 16, 1996, in NLRC Case No. RAB-10-01-00067-95.

The facts, borne by the records, are as follows:

Petitioner Limketkai Sons Milling, Inc. (LSMI) with principal office in Cagayan de Oro City is engaged in the manufacture and processing of corn oil and coconut oil. Petitioners Alfonso U. Lim, Albino U. Limketkai, and Engr. Lorenzo U. Limketkai, are the authorized representatives of LSMI. On June 16, 1982, LSMI hired respondent Editha Llamera as a laboratory analyst, assigned at the quality control department.

Sometime in March 1994, LSMI received reports that some of its oil products, particularly *Marca Leon Cooking Oil and Corn Oil* had visible impurities and rancid taste. Hence, it directed some of its employees, including respondent, to explain the reported adulteration.

The concerned employees, except respondent who was then on maternity leave, submitted their respective written explanations. In the meanwhile, they were all placed under preventive suspension.

Forthwith, LSMI immediately conducted a formal investigation. During the investigation, respondent, who was back from maternity leave, denied having anything to do with the adulteration of LSMI's oil products.

On June 6, 1994, LSMI terminated the services of the suspended employees. Respondent challenged her dismissal and filed against LSMI, a complaint for unfair labor practice, illegal suspension and illegal dismissal, and demanded payment of backwages, separation pay, maternity benefits, service incentive leave pay, moral and exemplary damages and attorney's fees.

Labor Arbiter Conchita J. Martinez ruled in favor of respondent, in a Decision dated December 16, 1996, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Finding respondents guilty of unfair labor practice;

2. Declaring the dismissal of complainant illegal and ordering respondents jointly and severally to pay to complainant the following:

a.	Separation pay	- P 79,500.00
b.	Backwages	- 160,916.71
c.	SILP	- 2,577.40
d.	13th Month Pay	- 15,679.17
e.	Maternity Benefit	- 7,950.00
f.	Moral Damages	- 5,000.00
g.	Exemplary Damages	- 5,000.00
	TOTAL	P 276,623.28

3. Ordering respondents to pay 10% of the total monetary award as attorney's fees.

SO ORDERED.[5]

On appeal, the National Labor Relations Commission (NLRC) reversed the above Decision, disposing that:

> WHEREFORE, the decision appealed from is Reversed and Set Aside with respect to the findings that complainant was illegally dismissed and that respondents committed acts of unfair labor practice for lack of factual and legal bases. The award for backwages is therefore deleted for lack of basis while the award for separation pay is modified and fixed in accordance with the terms of the Collective Bargaining Agreement entered into between the respondent company and the local union (LKKSI-Technical and Supervisory Union-WATU) concluded on May 6, 1994. The awards for moral and exemplary damages are likewise deleted for lack of factual and legal bases. The rest of the monetary awards are sustained, subject to the above modification and recomputation thereof by the Arbitration Branch of origin preparatory to the execution stage.
>
> SO ORDERED.[6]

Not satisfied with the ruling, respondent filed a motion for reconsideration with the NLRC. It was denied for lack of merit.

Thus, respondent filed a special civil action for *certiorari* with the Court of Appeals. The appellate court found respondent's petition partly meritorious. The decretal part of its Decision, impugned in this petition, reads:

> WHEREFORE, in view of all the foregoing, the decision of public respondent NLRC is hereby AFFIRMED with MODIFICATION that petitioner's dismissal was illegal. Accordingly, private respondents are jointly and severally liable to pay petitioner the following:
>
> a) Separation pay computed in accordance with the existing Collective

Bargaining Agreement;

b) Full backwages inclusive of allowances and other benefits allowed by law computed from the time the compensation was withheld up to the finality of this judgment; and

c) Attorney's fees equivalent to 10% of the total monetary award.

SO ORDERED.[7]

Aggrieved by the CA Decision, LSMI filed a motion for reconsideration, which the Court of Appeals, in its assailed Resolution, denied for lack of merit.

Hence, the instant petition anchored on the following assignments of error:

I

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE DECISION OF THE NLRC IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

II

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE QUALITY CONTROL DEPARTMENT WHERE RESPONDENT WORKED WAS SINGLED OUT.

III

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THERE WAS NO JUST AND/OR AUTHORIZED CAUSE TO TERMINATE RESPONDENT.

IV

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DENYING THE MOTION FOR RECONSIDERATION.[8]

Petitioners contend that the Court of Appeals erred in not according the NLRC's evaluation of evidence due respect and finality. Petitioners also allege that respondent was not singled out since all the laboratory analysts were invited to the hearing conducted by LSMI.

Petitioners further point out that respondent's position as laboratory analyst is imbued with trust and confidence, which was breached when the oil products under her control were returned due to its rancid taste and visible impurities. Thus, petitioners argue, respondent's termination for loss of trust and confidence was legal.

For her part, respondent counters that the petition should be denied outright, because it raises questions of fact. However, granting *arguendo* that the petition may be given due course, respondent also asserts that the Court of Appeals made a