

SECOND DIVISION

[G.R. No. 147572, February 19, 2003]

**TEODORICO ROSARIO, PETITIONER, VS. VICTORY RICEMILL,
RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

Petitioner Teodorico Rosario filed the instant petition for review on certiorari seeking to reverse and set aside the Decision^[1] dated September 22, 2000 and Resolution^[2] dated March 16, 2001 of the Court of Appeals in CA-G.R. SP No. 52487. In the assailed decision, the appellate court affirmed the decision of the National Labor Relations Commission (NLRC) declaring petitioner's dismissal from employment valid. The assailed resolution denied petitioner's motion for reconsideration.

The case stemmed from a complaint for illegal dismissal with money claims (separation pay, overtime pay, 13th month pay and incentive pay) filed by petitioner against respondent Victory Ricemill, a single proprietorship owned by Emilio Uy. The antecedent facts, as culled from the records of the case are, as follows:

Emilio Uy was engaged in the business of milling palay under the business name Victory Ricemill. He employed petitioner as truck driver from January 11, 1982 up to his dismissal on June 22, 1993. Petitioner was paid the wage rate of P110.00 per day. As truck driver, petitioner was tasked to, among others, haul palay from various points in Isabela and Cagayan and bring them to respondent's ricemill in Cabatuan, Isabela. In addition, petitioner acted as personal driver to the family of Mr. Uy during their trips to Manila.

On June 22, 1993, respondent terminated petitioner's employment for his notorious acts of insubordination and that he attempted to kill a fellow employee. According to respondent, petitioner was guilty of insubordination when he refused to serve as driver of Mr. Uy's son when the latter needed a driver. Further, on one occasion, petitioner was instructed to deliver 600 bags of cement to the Felix Hardware in Tuguegarao. Instead of bringing the merchandise to the said store, petitioner delivered the same to one Eduardo Interior, who had not since then paid for it to the damage of respondent in the total sum of P60,000.00. Because of petitioner's tendency to disobey the orders to him, respondent was constrained to engage the services of another driver in the person of Michael Ng. Petitioner resented the new driver and became uncooperative, disrespectful and quarrelsome. On June 21, 1993, petitioner, armed with a dagger, fought with Michael Ng and inflicted an injury on the latter. Petitioner likewise inflicted injuries on the head of Rody Senias, a co-employee, when he intervened in the fight and tried to pacify petitioner.

After the proceedings, the regional labor arbiter rendered his decision^[3] dismissing

for lack of merit the complaint for illegal dismissal. The regional labor arbiter found that there were valid causes, *i.e.*, willful disobedience to the lawful orders of the employer and commission of a crime or offense against the employer's duly authorized representative, for the termination of petitioner's employment.

On appeal, the NLRC ordered the remand of the case to the regional labor arbiter for further proceedings.^[4] The NLRC found that petitioner was denied due process during the proceedings with the regional labor arbiter as he (petitioner) was not given the opportunity to present his additional rebuttal evidence. On the other hand, respondent was allowed to submit in evidence various exhibits to discredit the rebuttal testimony of petitioner.

During the subsequent proceedings before the regional labor arbiter, petitioner submitted the affidavit of Mario Roque. Roque averred that contrary to respondent's claim, the 600 bags of cement delivered to Eduardo Interior had been paid as evidenced by DBP Check No. B-065462, dated May 22, 1993, in the sum of P58,950.00 payable to respondent.

Thereafter, the regional labor arbiter promulgated his decision^[5] stating that he found no reason to deviate from his previous decision. Roque's testimony was not given any probative value as the same was found to be hearsay. The regional labor arbiter concluded that respondent was justified in terminating the employment of petitioner on ground of loss of confidence. Accordingly, the regional labor arbiter again dismissed, for lack of merit, petitioner's complaint for illegal dismissal.

On appeal, the NLRC affirmed the ruling of the regional labor arbiter and declared that petitioner's dismissal was valid.

Petitioner then elevated the case to the CA which rendered the assailed decision.^[6] The appellate court accorded respect to the findings of the NLRC. It declared that petitioner's act of delivering the merchandise to Edgardo Interior, instead of Felix Hardware, without being authorized to do so by respondent was not only inimical to the latter's business interests, but constitutive of insubordination or willful disobedience as well. The CA likewise held that petitioner's act of fomenting a fight with a co-worker constituted serious misconduct. It further noted that petitioner's contumacious refusal to obey the reasonable orders of respondent was not sufficiently explained. The CA thus found that respondent had justifiable cause to dismiss petitioner.

Anent the procedural aspect, the CA observed that although there was no strict compliance with the two-notice rule, it could be gleaned from the records that petitioner was given ample opportunity to explain his side. Moreover, even granting that respondent fell short of the two-notice requirement, such irregularity, according to the CA, does not militate against the legality of the dismissal.^[7]

The dispositive portion of the assailed CA decision reads:

WHEREFORE, premises considered, the decision, dated August 24, 1998, of the National Labor Relations Commission in NLRC NCR CA 0008213-95 (NLRC RAB-II-CN-07-00262-93) is hereby AFFIRMED. Costs against the petitioner.^[8]

Petitioner filed a motion for reconsideration of the aforesaid decision but the CA denied the same in the assailed resolution. Aggrieved, petitioner filed with this Court the instant petition on the ground that:

THE HONORABLE COURT OF APPEALS, WITH ALL DUE RESPECT, COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE QUESTIONED DECISION OF THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION NOTWITHSTANDING THE FACT THAT PETITIONER WAS ILLEGALLY DISMISSED. THE HONORABLE COURT OF APPEALS LIKEWISE ERRED IN NOT SUSTAINING PETITIONER'S STANCE THAT HIS DISMISSAL FROM HIS EMPLOYMENT WAS NOT IN ACCORDANCE WITH THE DUE PROCESS REQUIREMENT OF THE LAW. AND AS A CONSEQUENCE OF PETITIONER'S ILLEGAL DISMISSAL, HE IS ENTITLED TO SEPARATION PAY, OVERTIME PAY, INCENTIVE LEAVE PAY, HOLIDAY PAY AND OTHER BENEFITS GRANTED BY LAW. IN SO DOING, THE HONORABLE COURT OF APPEALS RENDERED A DECISION WHICH IS CONTRARY TO THE FACTS OF THE CASE, THE EVIDENCE, LAW AND ESTABLISHED JURISPRUDENCE. THESE MANIFEST AND GLARING ERRORS, IF NOT CORRECTED, WOULD INEVITABLY WORK INJUSTICE TO HEREIN PETITIONER AND MAKE HIM SUFFER IRREPARABLE DAMAGE.^[9]

Petitioner presented the following issues for the Court's resolution:

I

WHETHER OR NOT PETITIONER'S TERMINATION WAS FOR A JUST AND LAWFUL CAUSE.

II

WHETHER OR NOT PETITIONER'S DISMISSAL FROM HIS EMPLOYMENT WAS IN ACCORDANCE WITH THE DUE PROCESS REQUIREMENT OF THE LAW.

III

WHETHER OR NOT PETITIONER IS ENTITLED TO SEPARATION PAY, OVERTIME PAY, INCENTIVE LEAVE PAY, HOLIDAY PAY AND OTHER BENEFITS GRANTED BY LAW.^[10]

It is the contention of petitioner that his act of delivering the 600 bags of cement to Edgardo Interior, instead of the Felix Hardware to which they were intended, does not constitute willful disobedience nor serious misconduct so as to justify his dismissal. He was allegedly constrained to look for another buyer for the merchandise because the proprietor of Felix Hardware rejected the aforesaid materials. It has been allegedly company practice for respondent to allow the delivery of materials to other business establishments when these are rejected by the intended customers. Contrary to respondent's claim, Mr. Interior allegedly paid for the bags of cement as testified to by Roque.

Petitioner maintains that his refusal to serve as driver to Mr. Uy's son does not constitute willful disobedience to the employer's lawful order because it was not

work-related. Further, he could not allegedly be dismissed for committing an offense against his co-worker, Michael Ng, because he was neither the employer, nor a member of his family nor his duly authorized representative.

Petitioner likewise claims that he was not afforded due process of law because prior to the termination letter, he was not furnished a written notice detailing the particular acts and/or omissions which he allegedly committed to warrant his dismissal. Petitioner thus prays that respondent be directed to reinstate him and pay his money claims.

The regional labor arbiter, the NLRC and the CA are unanimous in finding that there was justifiable cause for the dismissal of petitioner. They are one in holding that petitioner committed willful disobedience when he delivered the 600 bags of cement to Mr. Interior, instead of the Felix Hardware, without respondent's knowledge nor permission.

The validity of petitioner's dismissal is a factual question. It is not for the reviewing court to weigh the conflicting evidence, determine the credibility of witnesses, or otherwise substitute its own judgment for that of the administrative agency. Well-settled is the rule that findings of fact of quasi-judicial agencies, like the NLRC, are accorded not only respect but at times even finality if such findings are supported by substantial evidence.^[11] This is especially so in this case, in which the findings of the NLRC were affirmed by the Court of Appeals. The findings of facts made therein can only be set aside upon showing of grave abuse of discretion, fraud or error of law.^[12] None has been shown in this case.

The unanimous finding of the regional labor arbiter, the NLRC and the CA that petitioner is guilty of willful disobedience is based on substantial evidence on record. Petitioner's cause is not helped by the fact that he committed a crime against his co-worker. His actuations clearly constituted willful disobedience and serious misconduct justifying his dismissal under Article 282(a) of the Labor Code which provides:

Art. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

x x x

Willful disobedience of the employer's lawful orders, as a just cause for the dismissal of an employee, envisages the concurrence of at least two requisites: (1) the employee's assailed conduct must have been willful or intentional, the willfulness being characterized by a "wrongful and perverse attitude;" and (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.^[13]

In this case, the order to petitioner was simple, *i.e.*, to deliver the merchandise to the Felix Hardware. It was clearly reasonable, lawful, made known to petitioner and pertained to his duty as driver of respondent. Petitioner did not even proffer a