

FIRST DIVISION

[G.R. No. 151981, December 01, 2003]

DIAMOND MOTORS CORPORATION, PETITIONER, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND AGRIPINO C. CADAO, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. SP No. 63143,^[1] which affirmed the decision and resolution^[2] of the National Labor Relations Commission dated October 27, 2000 and December 28, 2001, respectively.

The facts are as follows:

Petitioner Diamond Motors Corporation hired respondent Agripino C. Cadao on May 17, 1989 and subsequently appointed him Special Accounts Manager in 1993 with a fixed monthly salary excluding commission for every car sold. His tasks included the promotion and sale of Mitsubishi vehicles to precisely listed corporate clients on fleet basis. Units purchased by fleet sale are usually lower by an average amount of P5,000.00 than those bought on retail. The transactions are usually done through letters of intent or purchase orders submitted by the client.^[3]

TAPE, Inc. is one of petitioner's clients on a fleet sale basis. On July 1, 1994, its purchasing officer and Executive Secretary to the President, Esper Reate, sent a letter of intent to respondent confirming an order for one unit of a 1994 Mitsubishi Lancer EL at P363,000.00, to be registered in the name of Ruth Racela. On July 28, 1994, two other letters of the same tenor were sent to the respondent confirming the orders for two Mitsubishi Lancer GLI 1300 to be registered in the names of Josefina Antonio and Federico de Joya, respectively.^[4]

TAPE, Inc. subsequently sent Purchase Order No. 001508 to petitioner for the three units amounting to P1,213,000.00. Petitioner investigated the said transaction through its Finance and Insurance Operations Manager, Ms. Santa T. Vargas. The latter found out that, with the exception of Ruth Racela, the two other customers were not employees of TAPE, Inc. or its sister corporation, M-Zet. Therefore, the production companies manifested that they will not pay for the purchase orders.

The report further noted that P.O. No. 001508 was 84 sheets ahead from the purchase order then in use, P.O. No. 001424; and that Esper Reate was not the authorized signatory for the purchases considering that only Mr. Antonio Tuviera as the President of TAPE, Inc., or, in his absence, Ms. Leslie Dionisio, AVP for Administration, can sign for them.

On September 3, 1994, respondent received a memorandum dated August 31, 1994 from petitioner, asking him to explain the misrepresentation he committed in favor of the three customers. In addition, he was accused by petitioner of dishonesty and deceit in the conduct of said sale.

Respondent, on the same day, submitted his written explanation in answer to the allegations. On September 8, 1994, petitioner terminated the services of respondent.

On February 2, 1995, private respondent filed a complaint for illegal dismissal with prayer for the payment of earned salary, commission and other accrued benefits against the petitioner before the National Labor Relations Commission. On April 2, 1998, the Labor Arbiter dismissed the complaint for lack of merit.

Aggrieved, private respondent appealed to the National Labor Relations Commission which reversed the decision of the Labor Arbiter and declared his dismissal illegal. Respondent was awarded separation pay plus backwages. Petitioner filed a motion for reconsideration but the same was denied.

Petitioner filed a petition for review with the Court of Appeals,^[5] contending that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it reversed the decision of the Labor Arbiter. Petitioner maintained that respondent's dismissal was for a valid cause pursuant to Article 282 of the Labor Code and jurisprudence; and that because of his misrepresentation and deception it suffered losses in the total sum of P115,000.00 corresponding to the differences between the regular and fleet prices of the units sold.

The Appellate Court dismissed the petition and affirmed the decision of the NLRC. Hence, this petition for review raising the following errors:

- I. THAT THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT, PETITIONER FAILED TO SUBSTANTIATE ITS CLAIM OF DISHONESTY AND LOSS OF CONFIDENCE AGAINST PRIVATE RESPONDENT AGRIPINO CADAQ;
- II. THAT SAID DECISION OF THE HONORABLE COURT OF APPEALS AND THE NATIONAL LABOR RELATIONS COMMISSION WERE PREMISED IN THE ABSENCE OF EVIDENCE BUT SUCH FINDINGS ARE CONTRADICTED BY THE EVIDENCE ON RECORD; AND THAT THE SAME HAVE BEEN MADE WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION;
- III. THAT THE PUBLIC RESPONDENT FAILED TO OBSERVE THE PRINCIPLE OF STARE DECISIS;
- IV. WHAT KIND OF EVIDENCE IS REQUIRED TO PROVE THE GUILT OF AN EMPLOYEE IN LABOR CASES? IS IT MERE PREPONDERANCE OF EVIDENCE OR PROOF BEYOND REASONABLE DOUBT?^[6]

We find merit in the petition.