

TWENTY-SECOND DIVISION

[CA-G.R. SP NO. 04619-MIN, January 23, 2014]

GEMMA SUPERIO AND GLORIA MIANA , PETITIONERS, VS. DOLE PHILIPPINES, INC. AND NATIONAL LABOR RELATIONS COMMISSION, EIGHTH DIVISION, RESPONDENTS.

JUDGMENT BASED ON COMPROMISE AGREEMENT

INTING, J.:

Before Us is a Petition for Certiorari^[1] under Rule 65 of the 1997 Rules of Civil Procedure assailing the Resolution^[2] dated May 27, 2011, as well as the Resolution^[3] dated August 24, 2011 denying petitioners' motion for reconsideration rendered by the National Labor Relations Commission (NLRC) 8th Division. The dispositive portion^[4] of the Resolution dated May 27, 2011, reads:

WHEREFORE, the appeal is hereby ordered DISMISSED and the assailed Decision dated December 30, 2010 is AFFIRMED.

SO ORDERED.

The facts are as follows: Petitioners Gemma Superio (Superio for brevity) and Gloria Miana (Miana) are former employees of private respondent DOLE Philippines, a corporation engaged in the growing and processing of pineapple for local and export markets.

Petitioner Superio started working with the private respondent company on August 2, 2004 as a trimmer in the Fruit Receiving Preparation Department.

Due to her various absences without permission (AWOP) wherein she was served with notices of charge which required her to submit a written explanation on her violations of company rules and regulations, particularly:

DPC # 1.1 – Absence without permission on any calendar day including Sunday, whether singly or consecutively, without reasonable excuse, except on legal holidays and on the employee's established rest days, within a one-year period with the following penalties:

First - Written
Offense Warning
Second - 3 Days Off
Offense
Third - 6 Days Off
Offense
Fourth - 12 Days
Offense Off
(Forfeiture

of
applicable
VL credits
for the 4th
successive
AWOP)

Fifth - Discharge
Offense

DPC # 7 – Violation of Company Policy, Rule or Regulation, Department Rule or Regulation, Departmental Rule or Regulation, within a one-year period.

First - Written
Offense Warning
Second - 1-3 Days
Offense Off
Third - 3-6 Days
Offense Off
Fourth - 6-12 Days
Offense Off
Fifth - Discharge
Offense

After the conduct of investigation, private respondent furnished petitioner Superio a notice of termination of employment for cause dated July 3, 2008. Petitioner however, appealed her dismissal begging for compassion. The private respondent granted it and ordered for her reinstatement.

Despite the second chance given by the company to petitioner Superio, she continued to absent herself from work without asking for permission on the following dates: October 17, 20, 23-25, 2008; November 12, 20-22, 24-29, 2008 and January 20-23, 26-30, 2009 which prompted the private respondent to send her a Notice of Charge on March 4, 2009. The notice was duly received by her on even date. An administrative investigation was conducted. Thereafter, the private respondent found her guilty of violating company rules and regulations on AWOP and a Notice of Termination of Employment was served upon her on March 23, 2009. She however, refused to acknowledge receipt of the notice. Subsequently, petitioner Superio filed a complaint for illegal dismissal with ancillary prayers for reinstatement, backwages, damages and attorney's fees, as well as money claims for proportionate 13th month pay and bottom line bonus before the NLRC Sub-Regional Arbitration Branch XII in General Santos City.

In so far as petitioner Gloria Miana is concerned, she started working with the private respondent's company on March 5, 2005 as harvester in the Fruit Receiving Preparation Department.

Notices of Charge dated October 12, 14 and 16, 2009, respectively were served to petitioner Miana for absenting herself on various occasions without prior permission. She replied through two (2) explanation letters both dated November 6, 2009 with three (3) medical certificates to support her absences. However, private respondent company found her explanations unavailing and thereby dismissed her from employment on December 7, 2009. A Notice of Termination of Employment was sent

to her last known address via registered mail by the private respondent. But petitioner Miana failed to claim the mail for three (3) consecutive times. Thus, the mail matter was returned to the private respondent.

Upon learning of her dismissal, petitioner Miana filed a complaint for illegal dismissal together with petitioner Superio before the NLRC Sub-Regional Arbitration Branch XII in General Santos City.

On December 30, 2010, the NLRC Sub-Regional Arbitration Branch XII, General Santos City, through Executive Labor Arbiter Tomas B. Bautista, Jr. rendered a decision in favor of private respondent company and against the petitioners dismissing the case for lack of merit.

Dissatisfied with the Executive Labor Arbiter's decision, petitioners filed an appeal before the public respondent NLRC Eighth Division in Cagayan de Oro City. On May 27, 2011, the public respondent rendered a Resolution dismissing the appeal for lack of merit and affirming the decision of the Executive Labor Arbiter. Subsequently, petitioners filed a motion for reconsideration but it was denied by the NLRC, Eighth Division on August 24, 2011.

Aggrieved, defendants-appellants interposed the present appeal and forthwith raised the sole issue of:

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PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION OF LAW IN HOLDING THAT THERE WAS VALID GROUND IN PETITIONERS' DISMISSAL.

In a Minute Resolution^[5] issued by this Court on November 6, 2012, the Court declared the instant petition submitted for decision.

On September 12, 2013, this Court issued a Resolution^[6] referring the instant controversy to the Philippine Center for Mediation (PMC) pursuant to A.M. No. 04-3-15 SC PHILJA dated March 23, 2004 (Resolution No. 04-04), the Revised Guidelines for the Implementation of Mediation in the Court of Appeals.

Subsequently, on December 12, 2013, Court of Appeals-Mindanao Station PMC Coordinator Melody Uchang Salise filed an Appellate Court Mediation's Report.^[7] The relevant portion of which states:

X X X X X X X X X X X

"On the said mediation conference, the case was successfully mediated.

WHEREFORE, the PMC prays of this Honorable Court of Appeals to render judgment pursuant to the terms of the Compromise Agreement.

The case is hereby submitted to the Twenty-Second Division and back to appellate court proceedings."

X X X X X X X X X X X

The attached Compromise Agreement^[8] between petitioners Gemma Superio and Gloria Miana, represented by Domingo A. Azores and private respondent DOLE