

SPECIAL SEVENTEENTH DIVISION

[CA-G.R. SP NO. 125555, May 29, 2014]

JULY MANUFACTURING COMPANY AND/OR CIPRIANO NG, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND JOSEPH BALAD-ON, RESPONDENTS.

D E C I S I O N

BATO, JR., J.:

Assailed in this Petition for Certiorari under Rule 65 of the 1997 Revised Rules on Civil Procedure are the Decision^[1] dated 29 December 2011 and Resolution^[2] dated 30 April 2012 of the National Labor Relations Commission in NLRC LAC No. 08-002119-11 (NLRC NCR Case No. 11-16751-10).

The facts of the case, as culled from the records, are as follows:

July Manufacturing Company ("July Manufacturing") is a domestic corporation^[3] engaged in the manufacturing of food products.^[4] Cipriano Ng ("Ng") is its President and General Manager.^[5]

On 24 May 2004, Joseph Balad-on ("Balad-on") started working for July Manufacturing as its Assistant Machine Operator.^[6] His last salary with the company was Php395. 97 per day.^[7]

On 9 November 2010, Balad-on reported for work. However, the security guard on duty did not allow him to enter the company premises because he had sore eyes.^[8] Upon his request, Balad-on was issued by the company doctor a medical referral form which was accordingly approved by the Human Resource Manager Darlene P. Sto. Domingo ("Sto. Domingo").^[9]

From 10 November 2010 to 16 November 2010, Balad-on went on a sick leave as he was advised by the company-referred physician Dr. Dalida to rest for seven (7) days.^[10] On 16 November 2010, he applied for an extension of his leave until 18 November 2010.^[11] Thereafter, when he reported back for work, he asked Production Section Head Cris Legaspi ("Legaspi") and Production Manager Jay dela Fuente ("dela Fuente") to sign his "back to work recommendation". However, dela Fuente refused to sign said recommendation and ordered him to just tender his resignation.^[12]

On 22 November 2010, Balad-on received a text message from the union Vice President Angelito Ricaplaza ("Ricaplaza") telling him to report to dela Fuente. Before reporting to dela Fuente, Balad-on asked for the assistance of the union President Danilo Garcia ("Garcia"). As a consequence thereof, his concern was discussed before the grievance committee headed by Ricaplaza and Garcia.^[13] During said proceedings, Balad-on was only silent and could not state his reasons

for his previous absences without the appropriate leave. Instead, Balad-on stated that he still wish to work for July Manufacturing and promise to try harder to change his attitude at work. However, dela Fuente was hesitant to grant Balad-on's request to continue working for the company because his superiors did not want to work with him due to his unreliable attendance and attitude at work. Nevertheless, dela Fuente asked Balad-on if he can really change despite his previous promises that he would no longer absent himself without leave. Balad-on stated that he would first carefully think about the matter, consult his wife and just report for work the following day.^[14]

On 26 November 2010, Balad-on filed a complaint against July Manufacturing and Ng for constructive dismissal, non-payment of holiday pay, premium for holiday and 13th month pay. In said complaint, Balad-on prayed for reinstatement with backwages and payment of the aforesaid monetary claims.^[15]

In the interim, on 3 December 2010, July Manufacturing sent a letter dated 1 December 2010 to Balad-on which explicitly stated –

“You have not been reporting for work since November 23, 2010, and as a matter of company procedure, you should have filed for vacation / sick / emergency leave (whichever is applicable) so that the company will know where you are.

So far you promised us in the presence of some of the union officers that you will report here the next day to officially discussed (sic) your case, but you did not complied (sic).

We even tried getting in touch with you through your reported cellphone and texted many times, but still we did not hear any communication from your end up to now.

Due to the above situation, we have no recourse but to declare you as “AWOL”. This shall serve as a FINAL NOTICE in light of our previous effort in reaching you to all forms of communication but to no avail. We expect you to report here on or before December 8, 2010. Failure to do so would mean that you have abandoned your work.”^[16]

On 14 December 2010, July Manufacturing sent another letter dated 13 December 2010 to Balad-on terminating him from his employment. The letter stated –

“It's been more than one week now after sending you a letter with Registry # 3424 dated 03 December 2010.

Despite this, still you failed to report and never communicated with us to inform that you are no longer interested to work.

In view of the above, be informed officially that we are terminating you as a regular employee effective today.”^[17]

On the same date, Balad-on sent through registered mail his letter of explanation to Sto. Domingo, the pertinent portions of which stated –

“x x x

Na, ang aming Union President na si G. Danny Garcia at Union Vice President na si Danny Ricaplaza ay nakiusap sa management na kung pwede ay papasukin na lamang ako sa trabaho. Ngunit ang sagot ni Sir Jay ay ayaw ng Section Head at ng mga kasamahan ko sa akin at maging saan mang department.

Na, nag-offer po si Sir Jay dela Fuente sa akin na gumawa na ako ng resignation letter at papasukin pa ako mula November 23, 2010 hanggang December 23, 2010. Hindi ako pumayag sa kagustuhan ni Sir Jay.

Na, dahil sa hindi ko pagpayag ay nagalit po sa akin si Sir Jay at sinabihan ako ng ganito: "pinahahaba lang natin ang usapan" at sinabihan nya ako na terminated na ako sa trabaho. At maging kayo po ay sinabihan nyo po ako ng hindi lalaking kausap. Matapos namin marinig ay lumabas na kami nila Danny Garcia at Lito Ricaplaza sa room at habang papalabas kami ay nagtanong po kayo kay Sir Jay dela Fuente kung ano na. Sinabihan po kayo ni Sir Jay na i-terminate mo na siya.

Dahil sa hindi na ako pinapapasok sa aking trabaho at patuloy ang ginagawang paghikayat sa akin na gumawa ng resignation letter ay nagpasya akong magfiled (sic) ng kaso noon November 26, 2010 sa National Labor Relations Commission (NLRC) ng constructive dismissal at iba pang benepisyo na dapat kong matanggap ayon sa nilalaman ng CBA at batas paggawa.

Bilang pagtatapos ng aking sagot/paliwanag ay muli kong pinapaalala sa inyong kaalaman na kailanman ay hindi ko po inabandona ang aking trabaho at mariin ko po na pinasusungalingan na hindi po ako nag AWOL. Ang hindi ko po pagpasok sa trabaho mula November 17, 2010 ay dahil sa ayaw pirmahan ni Sir Jay dela Fuente ang aking Back to Work slip noong November 16, 2010 na siyang pagbabasihan ng guwardya para papasukin ako sa aking trabaho araw-araw.

Inaasahan ko po na sa pamamagitan ng sagot at paliwanag ko ay inyong lubos na mau-unawaan at mapagtanto na mali po ang inyong binibintang sa akin na AWOL at PAG-ABANDONA SA AKING TRABAHO."^[18]

During the mandatory conference, the parties failed to settle the case amicably. Thus, they were directed to file their respective Position Papers.

Balad-on alleged that on 16 November 2010, he reported to Legaspi to get a back-to-work recommendation. After Legaspi signed his recommendation, Balad-on was ordered to report to dela Fuente for its final approval. However, dela Fuente did not sign the same and instead made several excuses and told him "ayaw na sa iyo ng mga kasamahan mo, pati na ang iyong Section Head."^[19] As such, Balad-on requested to be transferred to another department but dela Fuente ordered him to just submit a resignation letter so that he can be issued his Employment Certificate and he can be paid of his other employment benefits. Balad-on told dela Fuente that he will consult his family first and will report back to work the following day, *i.e.*, on 17 November 2010, because he did not want to file his resignation letter. On 22 November 2010, when he was asked by Ricaplaza to report to dela Fuente, Balad-on asked for the assistance of Garcia in his conference with dela Fuente and Sto.

Domingo. Unfortunately, dela Fuente again ordered Balad-on to resign from his employment. He did not heed dela Fuente's request. As a consequence, dela Fuente and Sto. Domingo verbally terminated his employment and informed him that he will no longer be allowed inside the company premises.^[20]

Balad-on argued that he was constructively dismissed because dela Fuente and Sto. Domingo told him that he is already terminated from employment if he does not tender his resignation letter. As such, Balad-on asserted that his verbal termination from employment was without just cause and observance of due process. The fact that he was no longer allowed to work after his sick leave was an act of constructive dismissal. The "Notice to Report to Work" was a mere afterthought as he was no longer allowed to work at the time his sick leave ended on 16 November 2010 and when he was securing his back-to-work recommendation.^[21]

July Manufacturing denied its liability and argued that Balad-on was not illegally terminated from employment. July Manufacturing maintained that Balad-on often committed serious offenses like absences without leave and sleeping while on duty for which he was correspondingly reprimanded, warned and suspended. Despite his previous offenses, Balad-on failed to report to work after his sick leave from 10 to 18 November 2010 expired. He was sent a letter dated 1 December 2010 asking him to explain his absences starting 23 November 2010. Due to his continued absence, July Manufacturing issued a termination letter dated 13 December 2010 to Balad-on. As such, July Manufacturing argued that Balad-on's dismissal was for a just cause and with observance of due process, thus, rendering his dismissal as valid.^[22]

On 27 June 2011, the Labor Arbiter rendered a Decision dismissing the complaint, the dispositive portion of which states –

"WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant complaint for lack of merit.

Other claims are likewise dismissed for lack of merit.

SO ORDERED."^[23]

The Labor Arbiter ratiocinated that Balad-on was guilty of serious offenses with regard to his attendance. He failed to report to work after expiration of his sick leave on 10 to 18 November 2010 and despite the notice sent to him dated 1 December 2010. The Labor Arbiter ruled that the dismissal of Balad-on from employment on 13 December 2010 was valid on the ground of gross and habitual neglect of duty.

On appeal by Balad-on,^[24] the NLRC reversed the Labor Arbiter its Decision dated 29 December 2011. The fallo of the Decision states –

"WHEREFORE, premises considered, the Decision of the Labor Arbiter is hereby REVERSED and SET ASIDE and a new one entered in its stead declaring complainant-appellant to have been illegally dismissed and ordering respondents-appellees to reinstate him to his former position without loss of seniority rights and to pay him full backwages reckoned from the date of his dismissal up to his reinstatement.

All other claims are dismissed for lack of merit.

SO ORDERED.”^[25]

The NLRC ruled that Balad-on was illegally terminated from employment because the facts of the case negates the charge of abandonment against him. His sick leave and its extension was approved by July Manufacturing. He also signified his intention to return to work when he asked for the approval of dela Fuente on his back-to-work recommendation and when he promptly attended the grievance meeting called by the company officers. The NLRC added that the Notice dated 1 December 2010 was contrary to what transpired during the grievance meeting and was only made after Balad-on had already filed the complaint for illegal dismissal.^[26]

Aggrieved, July Manufacturing filed its Motion for Reconsideration^[27] but the same was denied by the NLRC in its Resolution dated 30 April 2012.^[28] Hence, the present recourse of July Manufacturing, grounded on the following:

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT FAILED TO CONSIDER THAT PRIVATE RESPONDENT'S DISMISSAL WAS DUE TO OVERWHELMING JUST CAUSE AND UPON OBSERVANCE OF DUE PROCESS.

PUBLIC RESPONDENT GRAVELY ERRED IN RENDERING ITS JUDGMENT TOTALLY REVERSING THE RULING OF THE LABOR ARBITER BY FAILING TO UPHOLD THE FOLLOWING:

A. MANAGEMENT PREROGATIVE TO DISCIPLINE EMPLOYEES

B. THE DISMISSAL WAS DONE IN GOOD FAITH AND NOT FOR THE PURPOSE OF DEFEATING THE RIGHTS OF PRIVATE RESPONDENT

C. THAT IT WILL BE HIGHLY PREJUDICIAL TO PETITIONER COMPANY'S INTEREST TO IMPOSE ON IT THE SERVICES OF PRIVATE RESPONDENT WHO HAS BEEN SHOWN TO BE GUILTY OF THE CHARGES THAT WARRANTED HIS DISMISSAL.

D. TO FORESEE THE EFFECT OF ITS DECISION WILL DEMORALIZE THE RANK-AND-FILE EMPLOYEES IF THE UNDESERVING, IF NOT UNDESIRABLE, REMAIN IN THE SERVICE.

SERIOUS ERRORS IN THE FINDING OF FACT WHICH IF NOT CORRECTED WILL CAUSE GRAVE AND IRREPARABLE DAMAGE OR INJURY TO HEREIN PETITIONERS.^[29]

The pivotal issue for consideration of this Court is whether the NLRC committed grave abuse of discretion in declaring that Balad-on was illegally terminated from employment by July Manufacturing, thus, entitling him to reinstatement with backwages.

Traditionally, grave abuse of discretion is confined to capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.^[30] There is grave abuse of discretion where the power is exercised in an arbitrary and despotic manner by reason of passion, prejudice or personal hostility amounting to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in