SUPREME COURT
FIRST DIVISION

SANTIAGO ALCANTARA, JR.,
Petitioner,

-versus-

G.R. No. 143397
August 6, 2002

THE COURT OF APPEALS and THE PENINSULA MANILA, INC.,
Respondents.
x----------x

D E C I S I O N

KAPUNAN, *J.:*

Petitioner Santiago Alcantara, Jr., an employee of respondent The Peninsula Manila, Inc., seeks the reversal of the decision and resolution of the Court of Appeals upholding his dismissal for willful disobedience. At the time of his dismissal, petitioner worked as Commissioner II of the Food and Beverage Department of the Peninsula Manila Hotel, Inc. He was also a Director of the National Union of Workers in Hotels Restaurants and Allied Industries (NUWHRAIN)-Manila Peninsula Chapter.

The controversy stems from a Memorandum dated August 7, 1998 issued by respondent Hotel prohibiting the union from using the union office from midnight until 6:00 in the morning. The union office was located in the hotel premises. The text of said memorandum reads:

> It has been observed that the Union Offices are being used for

> recreation and sleeping purposes. Please be informed that the subject premises must not be utilized for any other purpose other than legitimate union activities.
>
> We wish to serve notice that the Union Office/s shall be used for official union business only and for no other purpose without the written consent of the Management. Management reserves the right to inspect said premises for verification and checking for compliance to this directive.
>
> Effective immediately, you are hereby directed to transact official union business starting 6:00 in the morning until midnight of the same day. The union office/s must be closed from 12:00 midnight to 6:00 o'clock in the morning
>
> For your guidance and strict compliance.[1]

On August 18, 1998, at about 1:30 in the morning, petitioner was seen inside the union office with Conrad Salanguit and a certain Ma. Theresa Cruz. They left the office at about 2:20 in the morning of the same day.

On August 20, 1998, petitioner and a male companion were seen entering the union office. Later that evening, petitioner was again seen in the office, seated with both legs resting on a table. His male companion, who turned out to be Mr. Salanguit, was lying on the bench. The office lights were off. DPO Lt. Caronan approached petitioner and reminded him of the Memorandum dated August 7, 1998. Petitioner and Mr. Salanguit refused to leave, however, and replied, “Consult that to our President because we gave a reply to that memorandum.” Both petitioner and Mr. Salanguit stayed in the office until 3:30 in the morning of August 21, 1998.

On August 28, 1998, Arsenio Olmedilla, Sous Chef-Production, sent a memorandum to petitioner informing him about the Security Department Report dated August 21, 1998. The memorandum stated that he was seen inside the union office between midnight until the morning of the following day and directed him to submit his written explanation within 24 hours from receipt thereof.

Petitioner submitted his letter-explanation dated August 28, 1998 intimating that the Memorandum prohibiting the use of the union

office was inconsistent with the CBA and was necessarily ineffective. Petitioner argued that inasmuch as the Hotel operated 24 hours a day, the union office should be available whenever the union found it necessary. This was how the CBA had always been applied. Petitioner also pointed out that the charge against him did not pertain to his duties in the Hotel. He claimed he used the union office only during his breaks or when he was off duty.

On November 26, 1998, at around 12:50 until 5:50 in the morning, petitioner was again seen lying on the bench inside the union office. DPO Lt. Caronan politely informed him again about the existing Memorandum and asked him to leave. Petitioner refused and left the union office only at around 5:50 in the morning of November 26, 1998.

In a Memorandum to petitioner dated December 7, 1998, Mr. Noel Silva, Assistant Food and Beverage Manager informed petitioner that Security had reportedly seen him lying on the bench at the basement rank-and-file union office on November 26, 1998 in violation of the Memorandum dated August 7, 1998. Petitioner was required to explain in writing why no disciplinary action should be taken against him.

On December 9, 1998, petitioner sent a letter to Mr. Silva explaining that the union had contested the Memorandum dated August 7, 1998. He reiterated that the Memorandum was unreasonable and unlawful. Petitioner invoked Section 4, Article IV of the Collective Bargaining Agreement (CBA) between the Union and the Hotel, stating that the hotel shall provide the Union with an office for its exclusive use. He further argued that the Memorandum constituted unlawful interference with the employees' right to self-organization.

On January 4, 1999, private respondent sent petitioner a Notice of Termination for alleged willful and blatant refusal to comply with a lawful and valid order (HRD Memorandum dated August 7, 1998) issued by his employer.

Meanwhile, the Union threatened to go on strike unless the memorandum in question was lifted and petitioner reinstated. Respondent requested the National Conciliation and Mediation Board to intervene and conduct preventive mediation proceedings.

Subsequently, the Union and the Hotel forged a Memorandum of

Agreement dated February 4, 1999 stating:

> IN THE INTEREST OF INDUSTRIAL PEACE AND HARMONY, the parties hereby agreed to the following:
>
> 1. That a committee composed of 6 members (3 from each Union; 3 from the Company) shall decide the HMO upon the expiration of the existing contract.
>
> 2. The union will use its Office strictly related to legitimate activities for twenty-four (24) hours;
>
> 3. The termination issue of Mr. Santiago Alcantara shall be referred to AVA NOEL G. SANCHEZ. In the meantime that the resolution of the issue is pending before the VA, he will receive his basic salary and service charge which shall be credited against the award of backwages, if any;
>
> 4. The parties will exert best efforts to facilitate the early resolution of VA case within one month.
>
> WHEREFORE, this Preventive Mediation case is considered SETTLED and DROPPED from the business calendar of this Office.[2]

On April 5, 1999, Voluntary Arbitrator Noel G. Sanchez, to whom the termination case was referred, rendered a decision the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered declaring the dismissal of SANTIAGO ALCANTARA as ILLEGAL and directing the Company to reinstate him to his former position without loss of seniority right and other privileges. Considering the agreement between the parties dated February 4, 1999, which provides that pending resolution of this case, complainant shall continue to receive his basic pay and share in service charges, there is no need to award backwages on the assumption that said items have been and continue to be paid.
>
> SO ORDERED.[3]

The Hotel filed a motion for reconsideration of the decision of the

Voluntary Arbitrator dated April 5, 1999. The motion was denied in a Resolution dated April 30, 1999.

On May 26, 1999, the Hotel brought the case to the Court of Appeals by way of a petition for review under Rule 43, alleging that the Voluntary Arbitrator erred in finding that the dismissal of petitioner was legal.

On November 24, 1999, the Court of Appeals rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, the instant petition is hereby GIVEN DUE COURSE and accordingly GRANTED. The Decision dated April 5, 1999 and the Resolution dated April 30, 1999, both rendered by public respondent Noel G. Sanchez, Voluntary Arbitrator in the case entitled " In Re: Voluntary Arbitration of the Labor Dispute at the Peninsula Manila National Union of Workers in Hotel Restaurant and Allied Industries (NUWHRAIN) - Manila Peninsula Chapter and Santiago Alcantara vs. The Peninsula Manila," docketed as NGS-VA-99-0216, are hereby ANNULLED and SET ASIDE.[4]

Petitioner moved for the reconsideration of the decision of the Court of Appeals. The Court of Appeals denied petitioner's motion for reconsideration in a Resolution dated May 16, 2000.

Hence, this petition.

Petitioner assigns two errors, namely:

> THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED IN IGNORING SECTION 2, RULE 43 OF THE 1997 RULES OF CIVIL PROCEDURE.
>
> THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED IN RULING THAT PETITIONER ALCANTARA'S DISMISSAL IS VALID, CONTRARY TO ESTABLISHED JURISPRUDENCE PERTAINING TO DISMISSALS BASED ON WILLFUL DISOBEDIENCE.[5]

Petitioner claims that Rule 43 of the 1997 Rules of Civil Procedure is inapplicable as a mode of appeal to the Court of Appeals from judgments issued by a voluntary arbitrator pursuant to Book Five, Title

VII-A of the Labor Code, as amended. Rule 43, it is submitted, only allows appeals from judgments of particular quasi-judicial agencies and voluntary arbitrators authorized by law and not those judgments and orders issued under the Labor Code.

The Court of Appeals correctly rejected this argument. In *Luzon Development Bank vs. Association of Luzon Development Bank Employees*,[6] cited by respondent court, we held:

In *Volkschel Labor Union, et al., vs. NLRC, et al.,* on the settled premise that the judgments of courts and awards of quasi-judicial agencies must become final at some definite time, this Court ruled that the awards of voluntary arbitrators determine the rights of parties; hence, their decisions have the same legal effect, as judgments of a court. In *Oceanic Bic Division (FFW), et al. vs. Romero, et al.,* this Court ruled that "a voluntary arbitrator by the nature of her functions acts in a quasi-judicial capacity." Under these rulings, it follows that the voluntary arbitrator, whether acting solely or in a panel, enjoys in law *the status of a quasi-judicial agency* but independent of, and apart from, the NLRC since his decisions are not appealable to the latter.

Section 9 of B.P. Blg. 129, as amended by Republic Act No. 7902, provides that the Court of Appeals shall exercise:

"x x x x x x x x x

> (3) Exclusive appellate jurisdiction over *all* final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, *instrumentalities*, boards or commissions, including the Securities and Exchange Commission, the Employees' Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

x x x x x x x x x"

Assuming arguendo that the voluntary arbitrator or the panel of

> voluntary arbitrators may not strictly be considered as a quasi-judicial agency, board or commission, still both he and the panel are comprehended within the concept of a "quasi-judicial instrumentality." It may even be stated that it was to meet the very situation presented by the quasi-judicial functions of the voluntary arbitrators here, as well as the subsequent arbitrator/arbitral tribunal operating under the Construction Industry Arbitration Commission, that the broader term "instrumentalities" was purposely included in the above-quoted provision.
>
> An "instrumentality" is anything used as a means or agency. Thus, the terms governmental "agency" or "instrumentality" are synonymous in the sense that either of them is a means by which a government acts, or by which a certain government act or function is performed. The word "instrumentality," with respect to a state, contemplates an authority to which the state delegates governmental power for the performance of a state function. An individual person, like an administrator or executor, is a judicial instrumentality in the settling of an estate, in the same manner that a sub-agent appointed by a bankruptcy court is an instrumentality of the court, and a trustee in bankruptcy of a defunct corporation in an instrumentality of the state.
>
> The voluntary arbitrator no less performs a state function pursuant to a governmental power delegated to him under the provisions therefor in the Labor Code and he falls, therefore, within the contemplation of the term "instrumentality" in the aforequoted Sec. 9 of B.P. 129. x x x

Petitioner argues, however, that *Luzon Development Bank* is no longer good law because of Section 2, Rule 43 of the Rules of Court, a new provision introduced by the 1997 revision. The provision reads:

> SEC. 2. *Cases not covered.* - This Rule shall not apply to judgments or final orders issued under the Labor Code of the Philippines.
>
> The provisions may be new to the Rules of Court but it is far from being a new law. Section 2, Rule 42 of the 1997 Rules of Civil Procedure, as presently worded, is nothing more but a reiteration of the exception to the exclusive appellate jurisdiction of the

Court of Appeals, as provided for in Section 9, Batas Pambansa Blg. 129,[7] as amended by Republic Act No. 7902:[8]

x x x

> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Employees' Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Court took into account this exception in *Luzon Development Bank* but, nevertheless, held that the decisions of voluntary arbitrators issued pursuant to the Labor Code do not come within its ambit:

> x x x. The fact that the voluntary arbitrator's functions and powers are provided for in the Labor Code does not place him within the exceptions to said Sec. 9 since he is a quasi-judicial instrumentality as contemplated therein. It will be noted that, although the Employees' Compensation Commission is also provided for in the Labor Code, Circular No. 1-91, which is the forerunner of the present Revised Administrative Circular No. 1-95, laid down the procedure for the appealability of its decisions to the Court of Appeals under the foregoing rationalization, and this was later adopted by Republic Act No. 7902 in amending Sec. 9 of B.P. 129.
>
> A *fortiori*, the decision or award of the voluntary arbitrator or panel of arbitrators should likewise be appealable to the Court of Appeals, in line with the procedure outlined in Revised Administrative Circular No. 1-95, just like those of the quasi-judicial agencies, boards and commissions enumerated therein.
>
> This would be in furtherance of, and consistent with, the original purpose of Circular No. 1-91 to provide a uniform procedure for

> the appellate review of adjudications of all quasi-judicial entities not expressly excepted from the coverage of Sec. 9 of B.P. 129 by either the Constitution or another statute. Nor will it run counter to the legislative intendment that decisions of the NLRC be reviewable directly by the Supreme Court since, precisely, the cases within the adjudicative competence of the voluntary arbitrator are excluded from the jurisdiction of the NLRC or the labor arbiter.
>
> The introduction of the provisions of Section 2, Article 42 of the Revised Rules of Civil Procedure, therefore, did not alter our ruling in *Luzon Development Bank*.
>
> We come now to the issue of petitioner's dismissal. 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.[9]

Petitioner avers that his dismissal for willful disobedience is unwarranted because:

(1) the Memorandum dated August 7, 1998 is not in connection with the duties which the employee had been engaged to discharge;

(2) the same Memorandum is not reasonable and lawful; and

(3) petitioner did not exhibit a "wrongful and perverse attitude" in disobeying said Memorandum.

Petitioner further posits that the use of the union office has no connection whatsoever with petitioner's duties as Commis II, one of the kitchen personnel. However, as respondent points out, every employee is charged with the implicit duty of caring for the employer's property; consequently, he is bound to obey the reasonable and lawful orders of the employer regulating the use and preservation thereof. Thus, this Court has upheld the dismissal of an employee for violation

of a rule prohibiting employees from using company vehicles for private purpose without authority from management.[10] This is not only to prevent loss on the part of the employer but also to prevent injury to the employees as well as the customers of the employer.

Whether the Memorandum in question is reasonable and lawful is beside the point. Company policies and regulations are, unless shown to be grossly oppressive or contrary to law, generally binding and valid on the parties and must be complied with until finally revised or amended unilaterally or preferably through negotiation or by competent authority. *(San Miguel Corporation vs. Ubaldo, 218 SCRA 293 [1993]).* The Court explained the rationale for this rule in *GTE Directories Corporation vs. Sanchez,* [197 SCRA 452 (1991)]:

> To sanction disregard or disobedience by employees of a rule or order laid down by management, on the pleaded theory that the rule or order is unreasonable, illegal, or otherwise irregular for one reason or another, would be disastrous to the discipline and order that it is in the interest of both the employer and his employees to preserve and maintain in the working establishment and without which no meaningful operation and progress is possible. Deliberate disregard or disobedience of rules, defiance of management authority cannot be countenanced. This is not to say that the employees have no remedy against rules or orders they regard as unjust or illegal. They may object thereto, ask to negotiate thereon, bring proceedings for redress against the employer before the Ministry of Labor. But until and unless the rules or orders are declared to be illegal or improper by competent authority, the employees ignore or disobey them at their peril. It is impermissible to reverse the process: suspend enforcement of the orders or rules until their legality or propriety shall have been subject of negotiation, conciliation, or arbitration.
>
> x x x

To repeat, it would be dangerous doctrine indeed to allow employees to refuse to comply with rules and regulations, policies and procedures laid down by their employer by the simple expedient of formally challenging their reasonableness or the motives which inspired them, or filing a strike notice with the Department of Labor and Employment, or, what amounts to the same thing, to give the

employees the power to suspend compliance with company rules or policies by requesting that they be first subject of collective bargaining. It would be well nigh impossible under these circumstances for any employer to maintain discipline in its establishment. This is, of course, intolerable. For common sense teaches, as Mr. Justice Gregorio Perfecto once had occasion to stress, that:

> "Success of industries and public services is the foundation upon which just wages may be paid. There cannot be success without efficiency. There cannot be efficiency without discipline. Consequently, when employees and laborers violate the rules of discipline they jeopardize not only the interest of the employer but also their own. In violating the rules of discipline they aim at killing the hen that lays the golden eggs. Laborers who trample down the rules set for an efficient service are, in effect, parties to a conspiracy, not only against capital but also against labor. The high interest of society and of the individuals demand that we should require everybody to do his duty. That demand is addressed not only to employer but also to employees."

The subject Memorandum is not grossly oppressive. It is not patently contrary to law. While petitioner argues that its application was discriminatory – the two employees found with him in the union room were not at all subjected to disciplinary action – the Memorandum was not discriminatory on its face. Petitioner's violation of his employer's order, prior to its revocation, was therefore inexcusable.

Nevertheless, we agree with petitioner that his behavior did not constitute the "wrongful and perverse attitude" that would sanction his dismissal. The surrounding circumstances indicate that petitioner was motivated by a his honest belief that the Memorandum was indeed unlawful and unreasonable. Previous practice allowed the use of the union office 24 hours a day. Section 1, Article III of the Collective Bargaining Agreement for 1996-2001 provided that, "All practices not expressly provided for in this Agreement which are presently being enjoyed by the employees shall be continued by the HOTEL" Moreover, the Memorandum regulated the use of the union office and petitioner, a union officer, interpreted such regulation as an unlawful interference with legitimate union activities. Viewed in this light, petitioner's attitude can hardly be characterized as "wrongful and perverse." While these circumstances do not justify his violation of the regulation, they do not justify his dismissal either.

The Hotel cites previous infractions committed by petitioner as additional grounds for his dismissal. The Court finds these to be nothing more than belated rationalizations; the Hotel did not refer to these violations in its Notice of Termination to petitioner.

The subject Memorandum purports to "secure the hotel against damage to property" in consonance with the hotel's "concern to keep the premises peaceful, orderly and safe." In short, it is a safety regulation. Under respondent's House Code of Discipline, the "failure to observe safety rules/requirements of the hotel" is a "Class A Offense," the third violation of which the same Code imposes a three-day suspension.

WHEREFORE, the petition is **GIVEN DUE COURSE** and **GRANTED**. The Decision of the Court of Appeals dated November 24, 1999 and Resolution of the same court dated May 16, 2000 are **SET ASIDE**. The Peninsula Manila, Inc. is ordered to immediately reinstate petitioner Santiago Alcantara, Jr. to his former, or an equivalent, position without loss of seniority and other rights and to pay him back wages from the time of his dismissal to the time of actual reinstatement less the value of wages for three days constituting the period of his suspension.

SO ORDERED.

Davide, Jr., *C.J.*, *(Chairman)*, Vitug, Ynares-Santiago, and Austria-Martinez, *JJ.*, concur.

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[1] Rollo, p. 113.
[2] Rollo, p. 53.
[3] Id., at 118.
[4] Id., at 39.
[5] Id., at 14.
[6] 249 SCRA 162 (1995).
[7] AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.
[8] AN ACT EXPANDING THE JURISDICITION OF THE COURT OF APPEALS, AMENDING FOR THE PURPOSE SECTION NINE OF BATAS PAMBANSA BLG. 129, AS AMENDED, KNOWN AS THE JUDICIARY REORGANIZATION ACT OF 1980.

[9] Dimabayao vs. National Labor Relations Commission, 303 SCRA 655 (1999); Lagatic vs. National Labor Relations Commission, 285 SCRA 251 (1998).
[10] See Soco vs. Mercantile Corporation, 148 SCRA 526 (1987); Family Planning Organization of the Philippines, Inc. vs. NLRC, 207 SCRA 415 (1992).
